

Chapter 461 Department of Human Services, Self-Sufficiency Programs

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DIVISION 1

GENERAL DEFINITIONS AND RULEMAKING

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDSD), or any other agency formerly part of the Department of Human Services means the Department of Human Services (DHS), except:

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.

(b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence (see section (25) of this rule), sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (18) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a decision notice (see section (21) of this rule) mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section (28) of this rule) and benefit level for the payment month (see section (50) of this rule).

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise (see section (43) of this rule), either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (15) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means:

(a) In the Pre-TANF, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.

(b) In all programs not covered under subsection (a) of this section, a caretaker (see section (12) of this rule) who meets the requirements of one of the following paragraphs:

(A) Is one of the following relatives of the dependent child (see section (23) of this rule):

(i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(ii) Stepfather, stepmother, stepbrother, and stepsister.

(iii) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(B) Is or was a spouse (see section (62) of this rule) of an individual listed in paragraph (A) of this subsection.

(C) Met the definition of "caretaker relative" under paragraph (A) or (B) of this subsection before the child was adopted (notwithstanding the subsequent adoption of the child).

(14) "Certification period" means the period for which an individual is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.

(a) In the ERDC program, a "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a "child" is an individual under the age of 18.

(c) In the OSIPM and QMB programs, “child” means an unmarried individual living with a parent (see section (49) of this rule) who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full-time secondary, postsecondary or vocational-technical training designed to prepare the individual for employment.

(d) In the REF and REFM programs, a “child” is:

(A) An individual under the age of 18; or

(B) An individual who is 18 years of age and attending secondary school full-time or pursuing a GED full-time.

(16) “Community based care” is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — Individuals living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) “Continuing benefit decision notice” means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) “Countable” means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) “Cover Oregon” means Oregon Health Insurance Exchange Corporation.

(20) “Custodial parents” mean parents who have physical custody of a child. “Custodial parents” may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) “Decision notice” means a written notice of a decision by the Department regarding an individual’s eligibility for benefits in a program.

(22) “Department” means the Department of Human Services (DHS).

(23) “Dependent child” in the TANF program means the following:

(a) An individual who is not a caretaker relative (see section (13) of this rule) of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent (see section (44) of this rule) whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) “Disability” means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual’s ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) “Domestic violence” means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, “family members” and “household members” mean any of the following:

(A) Spouse;

(B) Former spouse;

(C) Individuals related by blood, marriage (see section (42) of this rule), or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a child.

(26) “Domestic violence shelters” are public or private non-profit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(27) “Electronic application” is an application electronically signed and submitted through the Internet.

(28) “Eligibility” means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(29) “Equity value” means fair market value (see section (30) of this rule) minus encumbrances.

(30) “Fair market value” means the amount an item is worth on the open market.

(31) “Family stability” in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(32) “Family stability activity” in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (31) of this rule).

(33) “Financial institution” means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(34) “Homeless” in the ERDC program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.

(35) “Income producing property” means:

(a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). Examples of “income producing property” are:

(A) Livestock, poultry, and other animals.

(B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.

(b) In the OSIP, OSIPM, and QMB programs, “income-producing property” means any real or personal property not used in

self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. "Income-producing property" includes:

(A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.

(B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.

(C) Real property other than the home (including vacation homes and condominiums), that is rented out.

(c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:

(A) Rooms or other space for rent in the home (see OAR 461-145-0220).

(B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(36) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) For a new applicant to the GA, GAM, OSIP, or OSIPM program applying for care in a nonstandard living arrangement (see section (45) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).

(e) For a current recipient of the GA, GAM, OSIP, or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:

(A) The month the disqualifying transfer occurred.

(B) The month of application for long-term care (see section (40) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of assets.

(37) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(38) "Legally married" means a marriage uniting two individuals according to:

(a) The statutes of the state where the marriage occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(39) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.

(40) "Lodger" means a member of the household group (see OAR 461-110-0210) who:

(a) Is not a member of the filing group (see OAR 461-110-0310); and

(b) Pays the filing group:

(A) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, for room and board.

(B) In the GA, GAM, OSIP, OSIPM, and QMB programs, for room with or without board.

(41) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(42) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(43) "Marriage" means the union of two individuals who are legally married (see section (37) of this rule).

(44) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(45) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.

(46) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or domestic violence shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(47) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.

(48) "OCCS Medical Programs" refers to programs for which eligibility policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

(a) MAGI Adult;

(b) MAGI Child;

(c) MAGI Parent or Other Caretaker Relative;

(d) MAGI Pregnant Woman; and

(e) MAGI CHIP.

(49) "Ongoing month" means one of the following:

(a) For all programs except the SNAP program, any month following the initial month (see section (35) of this rule) of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the SNAP program, any month in the certification period (see section (14) of this rule) following the initial month of eligibility.

(50) "Parent" for all programs except the JPI and SNAP programs, means the biological or legal mother or father of an individual or unborn child. For the SNAP program, a "parent" means the biological or legal mother or father of an individual. For the JPI program, a "parent" means the biological or legal mother or father of a child under the age of 18.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual 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.

(c) 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 has given up care, control, and supervision of the child.

(51) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(52) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(53) "Periodic income" means income received on a regular basis less often than monthly.

(54) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The "primary person" for individual programs is as follows:

(a) For the TANF program, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, QMB, REF, and REFM programs: the client or client's spouse.

(55) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(56) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".

(57) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(58) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(59) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(60) "Shelter in kind" means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (58) of this rule) of the financial group. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(61) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(62) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.

(63) "Spouse" means an individual who is legally married to another individual.

(64) "Stable income" means income that is the same amount each time it is received.

(65) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(66) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(67) "Timely continuing benefit decision notice" means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(68) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(69) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(70) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 18-2014(Temp), f. & cert. ef. 7-1-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-001-0010

Notice of Rulemaking

See the current version of OAR 407-001-0000 and 407-001-0005 which apply to notices of rulemaking for rules in Chapter 461.

Stat. Auth.: ORS 183.341, 411.060 & 412.049

Stats. Implemented: ORS 183.341, 411.060 & 412.049

Hist.: AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 8-2006, f. & cert. ef. 6-1-06

461-001-0010

Notice of Rulemaking

See the current version of OAR 407-001-0000 and 407-001-0005 which apply to notices of rulemaking for rules in Chapter 461.

Stat. Auth.: ORS 183.341, 411.060 & 412.049

Stats. Implemented: ORS 183.341, 411.060 & 412.049

Hist.: AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 8-2006, f. & cert. ef. 6-1-06

461-001-0015

Definitions; SNAP

The following definitions apply to the rules of the SNAP program in Chapter 461:

- (1) Adult means an individual 18 years of age or older.
- (2) A disabled individual or an individual with a disability means an individual who meets any of the following requirements:
 - (a) Receives SSI benefits under title XVI of the Social Security Act.
 - (b) Receives blindness or disability benefits under titles I, II, X, XIV, or XVI of the Social Security Act.
 - (c) Receives OSIP or other state or federal supplement under section 1616(a) of the Social Security Act based on disability or blindness criteria under title XVI of the Social Security Act.
 - (d) Receives state general assistance benefits based upon disability or blindness criteria under title XVI of the Social Security Act.
 - (e) Receives interim assistance pending receipt of SSI or receives disability-related medical assistance under title XIX of the Social Security Act.
 - (f) Receives a state or federally administered supplemental benefit under section 212(a) of Public Law 93-66.
 - (g) Receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible for Medicare by the Railroad Retirement Board.
 - (h) Receives an annuity payment under Section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and meets the disability criteria used under title XVI of the Social Security Act.
 - (i) Receives VA benefits for non-service or service connected disability rated or paid as total under title 38 of the United States Code.
 - (j) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.
 - (k) Has a disability considered permanent under 221(i) of the Social Security Act section and is the surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service connected death under title 38 of the United States Code.
 - (l) Is a veteran or surviving spouse of a veteran considered by the VA to be in need of Aid and Attendance benefits or permanently housebound under title 38 of the United States Code.
 - (m) Is a surviving child of a veteran and considered permanently incapable of self support under title 38 of the United States Code.
- (3) Elderly means an individual 60 years of age or older.
- (4) Employee means an individual who works for another in return for financial or other compensation such as rent, but does not include an independent contractor.
- (5) Employer means a person that employs one or more individuals for wages, salary, or other compensation such as rent.
- (6) Externship means a required period of supervised practice completed off campus or away from an individual's school of higher education (see OAR 461-135-0570) in order to complete the requirements for the individual's degree.
- (7) Graduate assistantship means an appointment as a graduate student employee offering a financial payment to the graduate student for part-time work in teaching, administration, or research while the graduate student completes the academic requirements for an advanced degree at a school of higher education (see OAR 461-135-0570). A graduate assistantship includes such positions as graduate assistant, graduate research assistant, graduate teaching assistant, and graduate teaching associate.
- (8) Graduate fellowship means a school of higher education (see OAR 461-135-0570) awarded program, targeted to a specific student group or field of study, that may be awarded based on academic need, academic record, or merit.
- (9) Group living means a public or private nonprofit residential setting that serves no more than 16 residents and is certified by State of Oregon under regulations issued under section 1616(e) of

the Social Security Act (42 U.S.C. 1382e(e)). To be eligible for SNAP benefits, a resident of such a group living arrangement must be blind or have a disability.

- (10) Head of household means a primary person.
- (11) An individual is homeless if the individual does not have a fixed or regular nighttime residence or has a primary residence that is one of the following:
 - (a) A supervised shelter that provides temporary accommodations.
 - (b) A halfway house or residence for individuals who may become institutionalized.
 - (c) A temporary accommodation in another individual's or family's residence for 90 days or less.
 - (d) A place not designed to be or ordinarily used as a place for individuals to sleep, such as a hallway, bus station, or similar place.
- (12) Internship means an official or formal program through a school of higher education (see OAR 461-135-0570) to provide practical experience for an individual beginning an occupation or profession.
- (13) A migrant farmworker is an individual who regularly travels away from their permanent residence overnight, usually with a group of laborers, to seek employment in an agriculturally related activity. If any member of a SNAP household fits the definition of migrant farmworker at any time during the redetermination period, the household is budgeted according to the policy on migrant farmworkers.

(14) A primary person means:

- (a) An adult in the filing group (see OAR 461-110-0370) who is designated by the group to serve as the primary person. Where there is no adult, the group can designate another responsible person in the filing group.
- (b) Once the primary person has been designated, the filing group cannot choose a different individual to be the primary person during the same certification period (see OAR 461-001-0000) or during an OFSET or job quit disqualification period, unless there is a change in the composition of the household group (see OAR 461-110-0210).
- (15) Seasonal farmworkers are individuals employed in agricultural employment of a seasonal or temporary nature. If any member of a SNAP household fits the definition of seasonal farmworker at any time during the redetermination period, the household is budgeted according to policy on seasonal farmworkers. Seasonal farmworkers are not required to be absent overnight from their permanent residence when:

- (a) Employed on a farm or ranch performing field work related to planting, cultivation, or harvesting operations; or
- (b) Employed in a canning, packing, ginning, seed conditioning, or related research or processing operation, and transported to or from the place of employment by means of a day-haul operation.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816 & 411.825

Hist.: SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14

461-001-0020

Definitions; SNAP OFSET Components and Activities

The following definitions apply to rules about the SNAP OFSET program in chapter 461:

- (1) Assessment: An activity that involves gathering information to identify a client's strengths, interests, family circumstances, status in the OFSET program, goals, and vocational aptitudes and preferences and to mutually determine an employment goal, the level of the client's participation in the OFSET program, and which support services are needed to be able to participate in the components and activities
- (2) Basic education: A component intended to ensure functional literacy for all OFSET clients. Basic education activities are high school attendance, English as a second language (ESL) instruction, adult basic education (ABE) instruction, and services that result in obtaining a general equivalency diploma (GED).

(3) Case plan: The case plan (also called a personal plan or personal development plan) is a written outline, developed together by the client and case manager, with input from partners as appropriate, listing activities for the client. The components and activities are identified during the assessment and are intended to reduce the effect of barriers to the client's self-sufficiency, employment, job retention and wage enhancement. The case plan also identifies the support services the Department will make available to help the client complete the plan.

(4) English as a second language (ESL): An activity in the basic education component. ESL classes are designed to give clients with limited English proficiency better working skills in the language.

(5) Job search: A component that focuses on clients looking for and obtaining employment.

(6) Job skills training: A component that includes training designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes and receiving instruction in interviewing skills.

(7) Other employment-related activities: A component composed of other activities related to employment, including:

(a) Participation in a program of the Workforce Investment Act;

(b) A program authorized by section 236 of the Trade Act of 1974 (19 U.S.C. 2296)

(c) Sheltered work or supported work: A component that gives clients intensive staff support, skill training, intervention and counseling that will enable them to function independently at work.

(d) Vocational training: A component designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area. Examples are Project Independence, Women in Transition, and Nurses Aid certification.

(e) Work search agreement: See case plan in section (3) of this rule.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-001-0025

Definitions of Terms, Components, and Activities; JOBS, Pre-TANF, Post-TANF, TANF

In the JOBS, Pre-TANF, Post-TANF, and TANF programs, the following definitions apply to rules in Chapter 461 unless the context indicates otherwise.

(1) Activity: An action or set of actions to be taken by the client, as specified in the case plan. An activity is intended to reduce barriers and:

(a) Increase the likelihood of self sufficiency, employment, job retention, wage enhancement, and financial independence; or

(b) Promote family stability (see OAR 461-001-0000).

(2) Adult Basic Education (ABE): An activity in the basic education component that involves remedial education coursework intended to ensure functional literacy.

(3) Assessment: An activity of the program entry component that involves gathering information to identify the strengths, interests, family circumstances, status in the JOBS program, and vocational aptitudes and preferences of the client and to mutually determine an employment goal, the level of participation of the client in the JOBS program, and which support services are needed. This activity includes providing screenings and evaluations (if appropriate) to determine the level of participation, accommodation, and modification for the client in the JOBS program. The screenings include, but are not limited to, physical and mental health needs, substance abuse, domestic violence, and learning needs.

(4) Barrier: A personal condition or circumstance that reduces the likelihood the client will become employed or the client's ability to participate in an activity listed in the case plan.

(5) Basic education: A component of non-core activities intended to ensure functional literacy for all JOBS clients. Basic education activities are high school attendance, English as a second language (ESL) instruction, job skills training, adult basic education

(ABE) instruction, and services that result in obtaining a general equivalency diploma (GED). The component is discussed in OAR 461-190-0171 and 461-190-0181.

(6) Case plan (formerly also known as an employment development plan (EDP), a personal plan, or personal development plan): A written outline, developed in partnership by the client and case manager, with input from partners as appropriate, listing activities and goals for the client. The case plan also identifies the support service payments, accommodations, and modifications to help the client complete the plan. The DHS 1543 — Domestic Violence Assistance Agreement — is the case plan for clients with safety concerns about domestic violence.

(7) Community Service Program: An activity in the unpaid employment component in which the client works without pay at a job site to enhance the likelihood the client will become employed and perform work for the direct benefit of the community. This activity is available through nonprofit organizations or public agencies.

(8) Component: A set of one or more activities of the JOBS program. Components of the JOBS program are paid unsubsidized employment, paid subsidized employment, unpaid employment, vocational training, job search and readiness, and basic education activities.

(9) Core activities: Federally-defined countable work activities that include: paid unsubsidized employment; paid subsidized employment; work experience; on-the-job training; job search and readiness; community service programs; vocational training; and providing child care assistance to a community service program participant.

(10) Crisis intervention: Short-term services to address an immediate crisis need.

(11) Degree Completion Initiative (DCI): An activity in which a limited number of TANF recipients may participate for up to 12 months to complete an educational degree at a two- or four-year educational institution.

(12) Drug and alcohol services: An activity in the job search and readiness component that provides substance abuse screenings and evaluations, outpatient or resident treatment, and support groups such as AA or NA.

(13) Employer contact: A client communication with an employer or employer's representative through a visit, phone call, or mail to request consideration for employment.

(14) English as a second language (ESL): An activity in the basic education component. ESL classes are designed to give clients with limited English proficiency better working skills in the language.

(15) Fair Labor Standards Act (FLSA): Applies to subject employers with clients working in the unpaid employment component. FLSA requires that clients engaged in unpaid employment, in effect, may not "work off" their SNAP and TANF benefits at an hourly rate less than the state minimum wage.

(16) Federally required participation rates: The participation rates required by section 407 of the Social Security Act (42 USC 607).

(17) High School or GED Completion Attendance: An activity in the basic education component that involves attendance at a secondary school or in a course of study that leads to the completion of the GED.

(18) Job search: An activity in the job search and readiness component that focuses on clients looking for and obtaining employment. It is designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes, receiving instruction in interviewing skills, and participating in group and individual job search. There are two categories of job search: initial job search and regular job search. Initial job search may occur during the Pre-TANF program. Regular job search begins not later than the day after the Department finds the client eligible for TANF benefits.

(19) Job search and readiness: A component designed to prepare clients to compete in the local labor market. Job search, life skills, drug and alcohol services, mental health services, and reha-

bilitation activities are the activities of the job search and readiness component.

(20) Job skills training: An activity in the basic education component designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area.

(21) JOBS Plus program (JOBS Plus): An activity in the paid subsidized employment component that provides TANF clients with on-the-job training and pays their benefits as wages (see OAR 461-190-0401 to 461-190-0426).

(22) Life skills: An activity of the job search and readiness component. The activity develops employment-preparation skills and skills and attitudes that are commonly found in the workplace.

(23) Mental health services: An activity in the job search and readiness component that provides mental health screenings and assessments, counseling, medication management, and support groups.

(24) Microenterprise: An activity in the paid unsubsidized employment component in which the client is self-employed in a sole proprietorship, partnership, or family business that has fewer than five employees and has capital needs no greater than \$35,000.

(25) Non-core activities: Federally-defined countable work activities that include: job skills training directly related to employment; education directly related to employment; and satisfactory school attendance at a secondary level or leading to a GED.

(26) On-the-job training (OJT): An activity in the paid subsidized employment component in which a client works for an employer for a contracted period. The employer trains the client and is reimbursed by the Department, usually at 50 percent of the wages of the participant, for those training costs.

(27) Paid subsidized employment: A component in which clients are employed in a subsidized public or private sector job. JOBS Plus, work supplementation, and on-the-job training are the activities in the paid subsidized employment component.

(28) Paid unsubsidized employment: A component in which clients are employed full- or part-time in an unsubsidized job and receiving TANF benefits. Unsubsidized employment is a job that is not subsidized by TANF or any other public program. The UN work program and microenterprise are the activities in the paid unsubsidized employment component.

(29) Parents as Scholars (PAS): A JOBS program component that assists TANF parents who are or will be undergraduates to begin or continue their education at a two- or four-year educational institution (see OAR 461-190-0199).

(30) Program entry: An activity that includes all the activities that prepare a client to actively participate in the JOBS program. Program entry activities include assessment and writing the initial case plan.

(31) Progress (good or satisfactory): For federal reporting purposes, a client participating in an education or training activity makes good progress or satisfactory progress by receiving a passing grade or progressing toward completion of high school or GED completion at no less than the normal rate of a half-time student.

(32) Providing child care services to a Community Service Program participant: An activity in the unpaid employment component.

(33) Rehabilitation activities: An activity in the job search and readiness component that provides medical or therapeutic screenings, assessments, and treatment. This activity also includes medical management and support groups.

(34) Self-Initiated Training (SI): A JOBS program component that is short-term training needed to be competitive in the job market. This also allows a participant to continue an approved Vocational Training for up to 6 months.

(35) Supported work: An activity in the unpaid employment component that gives clients intensive staff support, skill training, intervention, and counseling that will enable them to function independently at work.

(36) Stabilization, intervention, and other activities: A group of activities that are non-countable for federal participation

purposes. These activities include child health and development, crisis intervention (see section (10) of this rule), domestic violence services, family stability activities (see OAR 461-001-0000), medical services, retention services, services to child welfare families, social security application, and stabilized living services.

(37) Support services: Services that case-managed clients need to participate successfully in activities outlined in their case plan, seek and maintain employment, or remove barriers.

(38) Teen parent: A parent (see OAR 461-001-0000) under 20 years of age who has not completed a high school diploma or GED.

(39) Transition services: Services included in a client's case plan when the client becomes employed or becomes ineligible for cash benefits because of an increase in income or resources.

(40) Unpaid employment: A component in which a client is placed in an unpaid job to develop good work habits, training, and knowledge to obtain employment. Employment may be in the private or public sector or through a work simulation program. Work experience, Community Service Program, providing child care services to a Community Service Program participant, and supported work are the activities of the unpaid employment component.

(41) UN work program: An activity in the paid unsubsidized employment component in which TANF clients work in unsubsidized employment and may also participate in another JOBS work site training activity.

(42) Vocational Training: An activity and component of the JOBS program that provides JOBS participants with access to specific vocational training that will lead to a career with an appropriate wage level and opportunity for employment.

(43) Work experience: An activity in the unpaid employment component in which the client works without pay at a job site to develop good work habits and basic vocational skills that enhance the likelihood the client will become employed. Work experience is available through private for-profit businesses, nonprofit organizations, or public agencies.

(44) Work supplementation: An activity in the unpaid employment component. Up to six months of work-site training provided by an employer. The component and activity are both called work supplementation. In work supplementation, the Department subsidizes the wages of the participant by providing up to \$200 per month to the employer.

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.016, 412.049, 2011 Or. Laws 604

Stats. Implemented: ORS 411.060, 412.001, 412.006, 412.016, 412.009, 412.049, 2011 Or. Laws 604

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 10-1991, f. & cert. ef. 4-19-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; Renumbered from 461-190-0110, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11; SSP 18-2015(Temp), f. 6-30-15, cert. ef. 7-1-15 thru 12-27-15

461-001-0030

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

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 long term 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 the child of the institutionalized spouse or community spouse and must also be either a minor (under the age of 21) or 21 or older but still a dependent.

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

(C) An “eligible dependent” is a dependent parent or sibling of the institutionalized spouse or community spouse who is residing with the community spouse and claimed as a tax dependent by either spouse.

(b) For cases without a community spouse, an “eligible dependent” is a minor (under the age of 21) or dependent child residing with and claimed as a tax dependent by the client.

(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.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; Renumbered from 461-160-0560, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-001-0035

Definitions; OSIP-EPD and OSIPM-EPD

The following definitions apply to the rules of the OSIP-EPD and OSIPM-EPD programs in Chapter 461:

(1) “Approved account” refers to a segregated account in a financial institution, the purpose of which is to save to use for future disability-related expenses that would increase the individual’s independence and employment potential. Also included in this definition are accounts regulated by the Internal Revenue Code and used for retirement planning, such as IRAs, 401(k)s, TSAs, and KEOGHs.

(2) “Blind work expenses” (BWE) refer to those costs defined by SSA that can be used as reductions to earned income as defined in 20 CFR 416.1112(c)(8).

(3) “Disabled” or “has a disability” refers to having a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) as defined in 20 CFR Part 404.

(4) “Disability determination” refers to the process used to establish whether the individual’s disability meets the definitions used by SSA in determining eligibility for SSI and SSDI.

(5) “Employment” refers to an ongoing work activity for which a client provides the Department with one of the following:

(a) Tax payments or filing for Federal Insurance Contribution Act (FICA).

(b) Tax payments or filing for Self-Employment Contributions Act (SECA).

(c) Clear and convincing evidence of self-employment.

(6) “Employment and independence expense” (EIE) refers to the cost of any expense that can be reasonably expected to enhance the independence and employment potential of the individual.

(7) “Impairment related work expenses” (IRWE) refer to those costs defined by SSA that can be used as reductions to earned income. To be allowed, the item or service must be related to the impairment and necessary to enable the individual to perform the individual’s job as defined in 20 CFR 416.976.

(8) “Participant fee” refers to the monthly payment that clients in the OSIP-EPD and OSIPM-EPD programs must make in order to be eligible for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-160-0800).

(9) “Past relevant work” (PRW) refers to work done within the past 15 years, that was substantial gainful activity, and that lasted long enough for the worker to learn how to do it.

(10) “*Substantial gainful activity*” (SGA) refers to the term used by SSA to describe a level of work activity and earnings. In the OSIP-EPD or OSIPM-EPD programs, an individual is engaging in SGA if the earnings of the individual are at or above the OSIP-EPD or OSIPM-EPD income standard.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2003(Temp), f. & cert. ef. 5-1-03 thru 9-30-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; Renumbered from 461-110-0115, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

DIVISION 25

HEARINGS

461-025-0300

Contested Case Hearings

(1) The rules in division 25 of this chapter of rules apply to contested case hearings of the Department authorized by OAR 461-025-0310(1). The hearings are conducted in accordance with the Attorney General’s model rules at 137-003-0501 and following, except to the extent that Department rules are permitted to and provide for different procedures.

(a) The method described in OAR 137-003-0520(11) is used in computing any period of time prescribed in this division of rules.

(b) In any contested case to which this division of rules applies:

(A) When a party or claimant is not represented by an attorney:

(i) Upon request of the party or claimant, the Department provides work contact information — telephone number and address — for any Department employees expected to testify at the hearing as witnesses, except rebuttal witnesses.

(ii) Except as provided in subparagraph (i) of this paragraph, the Department and any party or claimant in the contested case are not required to provide the telephone numbers and addresses of witnesses prior to the hearing.

(B) The Department does not provide the telephone number and addresses of a witness if the Department has concerns that the release of the information may affect the safety of the witness.

(2) When a Department employee represents the Department in a contested case to which this division of rules applies, requests for admission and written interrogatories are not permitted.

(3) The Department's contested case hearings governed by this division of rules are not open to the public and are closed to nonparticipants, except nonparticipants may attend subject to the parties' consent and applicable confidentiality laws.

(4) The Department has adopted the exceptions to the Attorney General's model rules set out in subsection (1)(b) and section (2) of this rule due to its caseload volume and because these discovery procedures would unduly complicate or interfere with the hearing process.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014 & 412.049
Stats. Implemented: ORS 183.452, 409.010, 411.060, 411.404, 411.816, 412.014 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2012(Temp), f. & cert. ef. 1-31-12 thru 7-29-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 32-2012(Temp), f. & cert. ef. 10-5-12 thru 4-3-13; SSP 8-2013, f. & cert. ef. 4-1-13

461-025-0301

Lay Representation in Contested Case Hearings

(1) Subject to the approval of the Attorney General, an officer or employee of the Department of Human Services (Department) is authorized to appear on behalf of the Department in the following types of hearings conducted by the Office of Administrative Hearings:

(a) Public assistance, including but not limited to eligibility for services available through a waiver or state plan or other benefits, the level and amount of services or benefits, effective date, and the termination, suspension, reduction, or denial of services or benefits;

(b) Medical assistance, including but not limited to eligibility for services available through a waiver or state plan for medical assistance or other medical benefits, the level and amount of services or benefits, effective date, prior authorizations, medical management decisions, and the termination, suspension, reduction, or denial of services or benefits;

(c) Employment Related Day Care, including child care provider overpayments and intentional program violations;

(d) Eligibility for Supplemental Nutrition Assistance Program (SNAP), the level and amount of benefits, effective date, and the termination, suspension, reduction, or denial of benefits;

(e) Client overpayments and intentional program violations, related to public assistance or medical assistance, SNAP, waived service benefits or medical benefits or services;

(f) Provider enrollment or denial of enrollment, provider overpayments, audits, and audit sanctions; and

(g) Estate administration hardship waivers.

(2) The Department's representative may not make legal argument on behalf of the Department.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the Department to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the Department; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses, or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the Department in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

(3) When an officer or employee appears on behalf of the Department, the administrative law judge shall advise the Department's representative of the manner in which objections may be

made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection.

(4) If the administrative law judge determines that statements or objections made by the Department representative appearing under section (1) of this rule involve legal argument as defined in this rule, the administrative law judge shall provide reasonable opportunity for the Department representative to consult the Attorney General and permit the Attorney General to present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.

(5) The Department is subject to the Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at <http://www.doj.state.or.us>. A Department representative appearing under section (1) of this rule must read and be familiar with it.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014 & 412.049
Stats. Implemented: ORS 183.452, 409.010, 411.060, 411.404, 411.816, 412.014 & 412.049
Hist.: SSP 32-2012(Temp), f. & cert. ef. 10-5-12 thru 4-3-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 15-2014, f. & cert. ef. 7-1-14

461-025-0305

Definitions

For the purposes of this division of rules, the following definitions apply unless the context clearly indicates otherwise:

(1) "Claimant" means a person who has requested a hearing or who is scheduled for an IPV hearing.

(2) "Department representative" or "Division representative" means a person authorized by OAR 461-025-0300 to represent the Department in the hearing.

(3) "Good cause" means a circumstance beyond the control of the claimant and claimant's representative.

(4) A "request for hearing" is a clear expression, oral or written, by an individual or representative that the person wishes to appeal a Department decision or action or, in the SNAP program, wishes to have the decision considered by a higher authority.

Stat. Auth.: ORS 411.060, 411.816 & 412.049
Stats. Implemented: ORS 411.060, 411.816 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-025-0310

Hearing Requests

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

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

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

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

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

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

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

(e) The Department modifies a grant of public assistance or a grant of aid; or the claimant claims that the Department previously

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underissued public assistance, medical assistance, or SNAP program benefits and the Department denies, or denies in part, that claim.

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

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

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

(i) The Department establishes or changes the client's premium for the Oregon Health Plan.

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

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

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

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

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

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

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

(2) A client is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the client is entitled to use the Department's re-engagement process (see 461-190-0231). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan (see 461-135-1205) is resolved through re-engagement if there is no right to a hearing under 461-135-1235.

(3) A request for hearing is complete:

(A) In public assistance and SNAP programs, when the Department's Administrative Hearing Request form (form DHS 443) is:

(A) Completed;

(B) Signed by the claimant, the claimant's attorney, or the claimant's authorized representative (see OAR 461-115-0090); and

(C) Received by the Department. OAR 137-003-0528(1)(a) (which allows hearing requests to be treated as timely based on the date of the postmark) does not apply to hearing requests contesting a decision notice (see 461-001-0000). The Department has adopted the exception to the Attorney General's model rules set out in this paragraph due to operational conflicts.

(b) In the SNAP program, when the Department receives an oral or written statement from the claimant, the claimant's attorney, or the claimant's authorized representative that the claimant wishes to appeal a decision affecting the claimant's SNAP program benefits to a higher authority.

(c) In the case of a provider of child care, when a written request for hearing from the provider is received by the Department.

(d) For medical assistance, when a hearing request is made in a manner permitted under OAR 410-200-0145 or this section.

(4) In the event a request for hearing is not timely, the Department may issue an order of dismissal if there is no factual dispute about whether sections (7) and (10) of this rule provide a right to a hearing. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.

(5) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly.

The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the claimant has the right to a contested case hearing.

(6) For medical assistance, to be timely, a hearing request must be received by the Department, the OHP Customer Service, or Cover Oregon in the time frame set out in OAR 410-200-0015 and 410-200-0145. In other programs, to be timely, a completed hearing request must be received by the Department not later than:

(a) Except as provided in subsection (b) of this section, the 45th day following the date of the decision notice (see OAR 461-001-0000) in public assistance programs.

(b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR 461-130-0330) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR 461-135-0085).

(c) The 90th day following the date of the decision notice in the SNAP program, except:

(A) A filing group may submit a hearing request at any time within a certification period (see OAR 461-001-0000) to dispute its current level of benefits.

(B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.

(d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.

(e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.

(7) When the Department receives a completed hearing request that is not filed within the timeframe required by section (6) of this rule but is filed no later than 120 days after a decision notice became a final order:

(a) The Department refers the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice:

(A) If the Department finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or

(B) If the Department finds that the claimant did not meet the timeframe required by section (6) of this rule due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), good cause (see OAR 461-025-0305), reasonable reliance on the statement of a Department employee relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department.

(b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant is entitled to a hearing on the merits if there is a dispute between the claimant and the Department about either of the following paragraphs.

(A) The claimant or claimant's representative received the decision notice or had actual knowledge of the decision notice. At the hearing, the Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed or electronically mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.

(B) The claimant qualifies for a contested case hearing on the merits under paragraph (a)(B) of this section.

(c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:

(A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and

(B) The decision notice was served personally or by registered or certified mail.

(8) In computing the time periods provided by this rule, see OAR 461-025-0300(1).

(9) In the REF and REFM programs, a client is not eligible for a contested case hearing when assistance is terminated because the

eligibility time period imposed by OAR 461-135-0900 has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.

(10) If the Department receives a hearing request more than 120 days after an overpayment notice became a final order by default:

(a) The Department verifies whether its records indicate that the liable adult requesting the hearing was sent the overpayment notice.

(b) If no overpayment notice was sent to that liable adult, the overpayment hearing request is timely. The Department will send the claimant a decision notice or a contested case notice.

(c) If the Department determines that an overpayment notice was sent to the liable adult, there is no hearing right based on the issue of whether or not the overpayment notice was received.

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

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

(11) If the Department receives a hearing request more than 120 days after a decision notice (other than an overpayment notice) became a final order by default:

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

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

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

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

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.103, 411.117, 411.404, 411.408, 411.816, 411.892, 412.009, 412.014, 412.049, 412.069

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-2000, f. 1-31-2000, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 4-2012(Temp), f. & cert. ef. 1-31-12 thru 7-29-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 32-2013(Temp) f. & cert. ef. 10-2-13 thru 3-31-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-025-0311

Continuation of Benefits

(1) This rule explains who may receive continuing benefits until a final order is issued in a contested case.

(2) Except as provided otherwise in this rule, a client who is entitled to a continuing benefit decision notice under a rule in division 175 of this chapter of rules may, at the option of the client, receive continuing benefits, in the same manner and same amount, until a final order resolves the contested case. To be entitled to continuing benefits, the client must complete a hearing request not later than the later of:

- (a) The tenth day following the date of the notice; and
- (b) The effective date of the action proposed in the notice.

(3) The continuing benefits are subject to modification based on additional changes affecting the client's eligibility or level of benefits.

(4) In determining timeliness under section (2) of this rule, delay caused by circumstances beyond the control of the claimant is not counted.

(5) In the ERDC program, if benefits are reduced or closed to reflect a mass change, continuing benefits are not available.

(6) In the REF and REFM programs, individuals are not entitled to continuing benefits when the issue in question is regarding the termination of benefits because the eligibility time period imposed by OAR 461-135-0900 has been reached.

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049

Hist.: AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 28-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 12-31-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-025-0315

Expedited Hearings

(1) A claimant has the right to an expedited hearing in each of the following situations:

(a) The Department denies or fails to issue a timely decision on claimant's request for:

- (A) Emergency assistance; or
- (B) TA-DVS (see OAR 461-135-1235).

(b) The claimant contests the form or amount of a TA-DVS or an emergency assistance payment.

(c) The claimant has the right to a hearing over a reduction, suspension, or closure and disagrees with the Department's decision to deny the continuation of one or more of the following pending a requested hearing:

- (A) Cash benefits.
- (B) Supplemental Nutrition Assistance Program benefits.
- (C) Medical benefits.

(D) Nursing Home services or home and community-based care (see OAR 461-001-0030) that have been reduced or closed as a result of a service re-assessment conducted in accordance with OAR Division 411-015.

(d) The claimant's request for expedited SNAP service or DSNAP is denied, or the claimant is aggrieved by an action of the Department that affects the expedited participation of the household in the SNAP program.

(e) In the JOBS program, the Department denies an application for a support service payment or a payment for a basic living expense authorized by OAR 461-190-0211, or the Department reduces or closes a support service payment authorized by 461-190-0211, or the Department does not issue a JOBS support service payment within the time frames required under 461-115-0190.

(2) Public assistance and medical assistance programs: An expedited hearing is a telephone hearing held within five working days of the Department's receipt of a properly submitted hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service, by overnight mail, or if the claimant agrees by electronic mail. The final order must be issued within three working days from the date the hearing closes.

(3) Supplemental Nutrition Assistance Program: An expedited hearing is a telephone hearing held within five working days of the receipt of a verbal or written hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service, by overnight mail, or if the claimant agrees by electronic mail. Following the expedited hearing, a final order must be issued not later than the ninth working day after the hearing was requested.

(4) If the Office of Administrative Hearings grants a face-to-face hearing, the hearing may be postponed or continued as necessary to accommodate the claimant. However, the hearing must be held not later than 21 days following the receipt by the Department of the request for hearing if the claimant lives within 100 miles of Salem, Oregon, and not later than 35 days in all other cases.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.099, 411.103, 411.117, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 21-1990(Temp), f. 8-28-90, cert. ef. 9-1-90; AFS 2-1991, f. 1-15-91, cert. ef. 2-1-91; AFS 4-1995, f. & ef. 2-1-95; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-025-0316

Intentional Program Violation (IPV) Hearings; SNAP program

Notwithstanding the other rules in this division of rules and the rules at OAR 137-003-0501 and following, this rule governs intentional program violation hearings for the SNAP program. This rule reflects the requirements of the U.S. Department of Agriculture for the SNAP program.

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

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

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

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

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

- (a) The individual refused the notice of hearing;
- (b) The individual refused to claim the notice of hearing;
- (c) The individual received the notice of hearing; or
- (d) The notice of hearing was sent to the address last reported by the individual to the SNAP program and was returned as undeliverable.

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

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

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

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

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

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 4-1995, f. & ef. 2-1-95; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 9-2014, f. & cert. ef. 4-1-14

461-025-0325

Informal Conference

(1) The Department representative and the claimant may have an informal conference to discuss any of the matters listed in OAR 137-003-0575(4). The informal conference may also be used to:

- (a) Provide an opportunity for the Department and the claimant to settle the matter;
- (b) Ensure the claimant understands the reason for the action that is the subject of the hearing request;
- (c) Give the claimant an opportunity to review the information that is the basis for that action;
- (d) Inform the claimant of the rules that serve as the basis for the contested action;
- (e) Give the claimant and the Department the chance to correct any misunderstanding of the facts;
- (f) Determine if the claimant wishes to have any witness subpoenas issued; and
- (g) Give the Department an opportunity to review its action.

(2) The claimant may, at any time prior to the hearing date, request an additional conference with the Department representative.

(3) The Department may provide to the claimant the relief sought at any time before the Final Order is served.

(4) Notwithstanding any rule in this chapter of rules, prehearing conferences are governed by OAR 137-003-0575.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00

461-025-0332

Burden of Proof

Except in an IPV case, the claimant has the burden of proof.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00

461-025-0350

Withdrawals of Hearing Requests

(1) A *claimant* (see OAR 461-025-0305) may withdraw a request for hearing (see OAR 461-025-0305) at any time before a final order has been issued on the contested case.

(a) In the DFSP program, the withdrawal of a request for hearing must be in writing.

(b) In all programs other than the DFSP program, a claimant may withdraw a request for hearing orally or in writing.

(2) The Department or the Office of Administrative Hearings will send an order confirming the withdrawal of a hearing request to the claimant's last known address. The claimant may cancel the withdrawal in writing if received by the Department hearing representative up to the tenth work day following the date such an order is served.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049, 2007 OL Ch. 288

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 16-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; SSP 8-2008, f. & cert. ef. 4-1-08

461-025-0356

Dismissal for Failure to Appear

Except in an IPV case, a hearing request is dismissed by order when neither the party nor the party's representative appears at the time and place specified for the hearing. The order is effective on the date scheduled for the hearing. The Department will cancel the dismissal order on request of the party on a showing that the party was unable to attend the hearing and unable to request a postponement for reasons beyond his or her control.

Stat. Auth.: ORS 411.060, 411.070 & 411.095

PROGRAM ACRONYMS

461-025-0371

Proposed and Final Orders

(1) When the Department refers a contested case under this division of rules (OAR 461-025) to the Office of Administrative Hearings (OAH), the Department indicates on the referral:

(a) Whether the Department is authorizing a proposed order, a proposed and final order (OAR 137-003-0645(4)), or a final order.

(b) If the Department is establishing an earlier deadline for written exceptions and argument because the contested case is being referred for an expedited hearing.

(2) When the Department authorizes either a proposed order or a proposed and final order:

(a) The claimant (see OAR 461-025-0305) or party may file written exceptions and written argument to be considered by the Department. The exceptions and argument must be received at the location indicated in the OAH order not later than the 20th day after service of the proposed order or proposed and final order, unless subsection (1)(b) of this rule applies.

(b) Proposed Orders. After OAH issues a proposed order, the Department issues the final order, unless the Department requests that OAH issue the final order under OAR 137-003-0655.

(c) Proposed and Final Orders. If the claimant or party does not submit timely exceptions or argument following a proposed and final order, the proposed and final order becomes a final order on the 21st day after service of the proposed and final order unless the Department has issued a revised order or has notified the claimant or party and OAH that the Department will issue the final order. When the Department receives timely exceptions or argument, the Department issues the final order, unless the Department requests that OAH issue the final order under OAR 137-003-0655.

(3) If in a contested case hearing the Office of Administrative Hearings is authorized to issue a final order on behalf of the Department, the Department may issue the final order in the case of default.

(4) A petition by a claimant or party for reconsideration or rehearing must be filed with the individual who signed the final order, unless stated otherwise on the final order.

Stat. Auth.: ORS 183.341, 409.050, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049

Stats. Implemented: ORS 183.341, 409.050, 411.060, 411.095, 411.404, 411.408, 411.816, 412.014, 412.049

Hist.: AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-025-0375

Final Order; Timeliness and Effective Date

(1) A Final Order will be issued or the case otherwise resolved:

(a) In public assistance and medical assistance cases not later than 90 days following the request for hearing;

(b) In cases involving only the SNAP program not later than 60 days following the request for hearing; and

(c) In IPV cases within 90 days of the date the claimant was notified in writing that a hearing had been scheduled.

(2) Delay due to a postponement or continuance granted at claimant's request shall not be counted in computing the time limits specified in section (1) of this rule.

(3) The final order is effective immediately upon being signed or as otherwise provided in the order.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-101-0010

Program Acronyms and Overview

(1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.

(2) When no program acronym appears in a rule in chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.

(4) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for individuals who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.

(5) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.

(6) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.

(7) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.

(8) GA; General Assistance. Cash assistance to low-income individuals with disabilities who do not have dependent children.

(9) GAM; General Assistance Medical. Medical assistance to individuals who are eligible for the GA program but have not been found eligible for OSIPM benefits.

(10) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.

(11) JOBS; Job Opportunity and Basic Skills. An employment program for TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(12) JOBS Plus. Provides subsidized jobs rather than SNAP or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for SNAP clients and noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, SNAP clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

(a) TANF-PLS; Clients eligible for JOBS Plus based on TANF.

(b) SNAP-PLS; Clients eligible for JOBS Plus based on SNAP.

(c) NCP-PLS; Noncustodial parents of children receiving TANF.

(13) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.

(14) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare clients who

are eligible for extra help meeting their Medicare Part D prescription drug costs.

(15) OFSET. The Oregon Food Stamp Employment Transition Program, which helps SNAP program benefit recipients find employment. This program is mandatory for some SNAP program benefit recipients.

(16) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to individuals who are blind, disabled, or 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

(a) OSIP-AB; Oregon Supplemental Income Program — Aid to the Blind.

(b) OSIP-AD; Oregon Supplemental Income Program — Aid to the Disabled.

(c) OSIP-EPD; Oregon Supplemental Income Program — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIP-OAA; Oregon Supplemental Income Program — Old Age Assistance.

(17) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical — Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical — Aid to the Disabled.

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical — Old Age Assistance.

(e) OSIPM-IC; Oregon Supplemental Income Program Medical — Independent Choices

(18) The Post-TANF program provides a monthly transitional payment to employed clients who are no longer eligible for the Pre-TANF or TANF programs due to earnings, and meet the other eligibility requirements.

(19) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.

(20) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:

(a) QMB-BAS; Qualified Medicare Beneficiaries — Basic. The basic QMB program.

(b) QMB-DW; Qualified Medicare Beneficiaries — Disabled Worker. Payment of the Medicare Part A premium for individuals under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

(c) QMB-SMB; Qualified Medicare Beneficiaries — Specified Limited Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(d) QMB-SMF; Qualified Medicare Beneficiaries — Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program

has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.

(21) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.

(22) REFM; Refugee Assistance Medical. Medical coverage for low-income refugees.

(23) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(24) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low-income seniors. Funded by a grant from the United States Department of Agriculture.

(25) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

(26) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps; any reference to SNAP also includes FS and Food Stamps.

(27) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of individuals threatened by domestic violence.

(28) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025 & 414.826

Stats. Implemented: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 18-2014(Temp), f. & cert. ef. 7-1-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15

DIVISION 105

RIGHTS AND RESPONSIBILITIES

461-105-0006

Business Continuity Provisions

(1) The use of this rule by any CAF *branch office* (see OAR 461-001-0000) requires the approval for that site by:

Chapter 461 Department of Human Services, Self-Sufficiency Programs

(a) The Deputy Assistant Director for CAF Field Services or the designee of this official; and

(b) The Administrator of the Office of Self Sufficiency Programs or the designee of this official.

(2) The Department will only approve the use of this rule after considering the feasibility of avoiding the use of the rule by moving enough employees who are able to perform the needed tasks to the sites that have too few employees.

(3) For purposes of this rule:

(a) "Business continuity disruption" refers to an emergency event or a work stoppage that causes the absence of most of the employees in at least one *branch office* for an expected time period of sufficient duration that compliance with applicable administrative rules in chapter 461 is not feasible. A "business continuity disruption" continues until a sufficient number of employees return to work to permit compliance at the *branch office* with the administrative rules in chapter 461.

(b) "Emergent need".

(A) In the ERDC program, the term "emergent need" refers to an individual who requires child care in order to work and who will lose this child care unless the application is processed promptly.

(B) In the SNAP program, the term "emergent need" refers to an individual who qualifies for expedited services under OAR 461-135-0575.

(C) In the medical assistance programs:

(i) The term "emergent need" refers to an individual reporting either of the following:

(I) A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention or medication may reasonably be expected to result in placing the health of the patient in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(II) A need for prompt processing of an application to secure provider services for mental health, substance abuse, or long-term care.

(ii) An individual does not need to document the "emergent need".

(D) In the REF and TANF programs, the term "emergent need" refers to a household that meets the requirements of one of the following subparagraphs:

(i) Countable income less than \$150 a month, and liquid resources that do not exceed \$100.

(ii) Gross income and resources that combined are less than the total of the household's monthly rent or mortgage, plus its utilities.

(iii) Liquid resources (see subsection (c) of this section) that do not exceed \$100 as well as being a destitute household of migrant and seasonal farmworkers (see OAR 461-001-0015) with little or no income at the time of application.

(E) In the TA-DVS program, the term "emergent need" refers to an individual with an immediate safety need.

(c) "Liquid resources" refers to cash on hand, a checking or savings account, a savings certificate, and a lump sum payment.

(4) During a *business continuity disruption*, a *branch office* issues DSNAP benefits as provided in OAR 461-135-0491 to 461-135-0497 if the *branch office* is in a location authorized by the Food and Nutrition Service (FNS) during a disaster benefit period. This rule does not otherwise apply to the DSNAP program.

(5) Notwithstanding any other administrative rule in chapter 461, during a business continuity disruption under the authorization required in section (1) of this rule, a CAF *branch office* may use any or all of the following special provisions:

(a) Application process.

(A) Individuals qualifying as *emergent need*.

(i) In the ERDC, medical assistance, REF, and TANF programs, acceptance or processing by the Department of applications may be limited to individuals in *emergent need*.

(ii) In the SNAP program, processing of applications for new clients may be limited to individuals in *emergent need*.

(iii) In the TA-DVS program, waive the requirement to jointly staff an application for TA-DVS benefits under OAR 461-135-1230(3).

(B) Application process for individuals without an *emergent need*.

(i) In the ERDC, REF, and TANF programs, each *branch office* using this provision may document a request for benefits by maintaining a dated list of the names of these new clients as well as social security numbers (if available). The Department will use these lists to establish the date of request for those clients who request assistance during the *business continuity disruption* and complete the application within 30 days after the conclusion of the *business continuity disruption* or by the deadline that applies under another program rule, whichever occurs later.

(ii) In the SNAP program, for a new client, each *branch office* using this provision may document a filing date by maintaining a file of completed filing pages (DHS 415Y or DHS 539F). The Department will schedule and conduct interviews with each client after the conclusion of the *business continuity disruption*.

(iii) In the medical assistance programs, each *branch office* should establish a date of request using OAR 461-115-0030.

(iv) In the TA-DVS program, the Department may document a request for benefits by maintaining a dated list of the names of the applicants as well as social security numbers (if available). The Department will use this list to establish a date of request for those clients who request assistance during the *business continuity disruption*. The Department will schedule and conduct interviews with each client within two business days after the conclusion of the business continuity disruption or when an immediate safety need arises, whichever occurs sooner.

(b) Benefit levels. In the ERDC, REF, SFPSS, and TANF programs:

(A) Except as provided for REF in OAR 461-135-0900(4), a client, including a client in the Simplified Reporting System (SRS), may continue to receive benefits at the level in effect the day before the special provisions of this rule applied to the *branch office*.

(B) In the ERDC, SFPSS, and TANF programs, the Department may authorize a *branch office* to automatically extend certification periods for the duration of the *business continuity disruption*.

(C) Payments for *support services* (see OAR 461-001-0025) listed in a *case plan* (see OAR 461-001-0025) may continue at the level in effect the day before the special provisions of this rule applied to the *branch office*. The Department approves or denies any new request for a *support services* payment on a case by case basis.

(D) In the REF and TANF programs, for an *emergent need* household, the Department may issue a temporary benefit in the following amounts:

(i) \$200 for a single individual.

(ii) \$100 for each additional individual to a maximum payment of \$900.

(E) In the TA-DVS program, payments will be made to address immediate safety needs.

(c) Processing changes for current recipients. Except in the SNAP program, a *branch office* may suspend the processing of changes during the *business continuity disruption*.

(d) Redetermination of benefits issued in accordance with this rule; payments for supplemental benefits and establishment of overpayments. For each client who receives a benefit under the provisions of this rule, after the *business continuity disruption* ends:

(A) The Department will determine the correct benefit amount and either provide a supplemental payment or assess an overpayment as appropriate.

(B) In the SNAP program, the Department will make the determination about supplemental payments under paragraph (A) of this subsection within 10 days of the end of the *business continuity disruption*.

(e) In the SNAP program, in addition to the other processes described in this rule, the policies under this subsection may be implemented upon authorization by the Food and Nutrition Service

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(FNS). The Department notifies each affected *branch office* of the authorization and its effective dates prior to implementation.

(A) For a telephone request for a SNAP program application, the *filing date* (see OAR 461-115-0040) is the same as the *date of request* (see OAR 461-115-0030).

(B) A SNAP program applicant may receive a telephone interview without a Department determination that a *branch office* visit is a hardship to the applicant.

(C) An applicant requesting a SNAP program application via the telephone, meeting the expedited service criteria under OAR 461-115-0690, and whom the *branch office* must be able to identify may be interviewed and may provide an oral signature via the telephone after affirming all of the provided information is true and correct.

(i) If eligible for SNAP program benefits, the applicant is certified until the last day of the following month.

(ii) The applicant must sign and return a completed SNAP program application along with any requested verifications to the local *branch office* within 30 days.

(D) SNAP program benefits may be maintained at the current level and extended for two additional months when the Department receives FNS approval within any month described in the following situations:

(i) The last month of a *certification period* (see OAR 461-001-0000).

(ii) The month an Interim Change Report is due.

(iii) The month a Transitional Benefit Alternative period ends.

(iv) The month a Monthly Change Report is due.

(E) A client must report changes described in OAR 461-170-0011 by the last day of the month following the month in which the change occurred.

(6) Notwithstanding any other administrative rule in chapter 461, during a *business continuity disruption* with the approval of the Manager of Field Services for the Seniors and People with Disabilities Division (SPD) or the designee of this official:

(a) A *branch office* may limit acceptance or processing of applications for long-term services to individuals in *emergent need* who do not yet have a placement or are at risk of losing their current one.

(b) An SPD or AAA office may apply any exception in this rule for SNAP and Medicaid programs to the extent authorized.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014 & 412.049

Hist.: SSP 30-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10

461-105-0010

Rights of Clients

Clients of the Department in programs regulated by Chapter 461 of these rules have the following rights and the right to be informed of them:

(1) The right to information about the programs administered by the Department.

(2) The right to confidentiality for individually identifiable information to the extent provided under federal and state law, including the administrative rules of the Department.

(3) The right to refuse social services unless:

(a) The service is court-ordered;

(b) The service is related to a case plan as defined in OAR 461-001-0020 or 461-001-0025; or

(c) Treatment is required under OAR 461-135-0085.

(4) In the Pre-TANF, REF, SFPSS, and TANF programs:

(a) The right to be offered or request available screenings or evaluations at any time that identify barriers (see OAR 461-001-0025) or the existence of a disability (see OAR 461-001-0000), extent of the disability, or need for accommodations, or modifications relevant to the program.

(b) The right to decline a screening or evaluation that would disclose to the program the existence of a disability (see OAR 461-001-0000) unknown to the program.

(5) The right, at any time, to obtain the Department's standard form for requesting a hearing.

(6) The right to request a hearing to the extent provided in OAR 461-025-0310 and 461-025-0315.

(7) The right to request and receive an application to apply for any program administered by the Department.

(8) The right to have a decision on eligibility made by the Department within the timelines set forth in OAR 461-115-0190 and 461-115-0210.

(9) The right to apply for and receive benefits and services from the Department and its contractors, grantees, agents, and providers of services who receive payments from the Department without discrimination on the basis of race, color, national origin, religion, gender, sexual orientation, disability, or political beliefs (see OAR 461-105-0180 and 461-105-0190).

(10) The right to courteous, fair, and dignified treatment by Department personnel and to file a complaint with the Department about staff conduct or customer service to the extent provided in OAR 407-005-0100 to 407-005-0120.

(11) The right to file a complaint with the Department about discrimination or unfair treatment as provided in Procedure DHS-010-005-01, "Filing a Client Complaint or Report of Discrimination" or OAR 407-005-0030.

Stat. Auth.: ORS 411.060, 411.816, 418.040, 418.045, 412.049

Stats. Implemented: ORS 411.060, 411.816, 418.040, 418.045, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-105-0020

Responsibilities of Clients

To be eligible for benefits, clients must do all the following:

(1) Provide true, complete, and accurate information required to determine eligibility and verify that information, to the extent permitted by their physical and mental condition, or authorize the branch office to obtain verification.

(2) Comply with the eligibility requirements of the program for which they are requesting or receiving benefits.

(3) Report within 10 calendar days any changes that could affect their eligibility for benefits.

(4) Accept social services that are court-ordered or related to a *case plan*.

(5) Cooperate with case reviews by providing requested information and verification.

(6) Complete the application process or inform the branch office of their decision to withdraw the application for program benefits.

(7) Share these responsibilities with a spouse who resides in the same household.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.111 & 411.113

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 11-1999, f. & cert. ef. 10-1-99

461-105-0060

Release of Information to the Client

For any program covered by Chapter 461 of the Oregon Administrative Rules:

(1) The Department must make the information in a case record of a client available to the following people within the limits described in this rule:

(a) Anyone in the filing group.

(b) Anyone authorized by the primary person or by a person in the filing group.

(2) The primary person and filing group members may have access only to client information that is related to the time during which they had that position in the case. The person can appoint an authorized representative whose access to client information covers only that same period.

(3) The "minimum necessary" standard as described in OAR 410-014-0040 is extended to limit the sharing of individually identifying information by the Department about one member of a

filing group with either another member of the filing group or anyone authorized by another member of the filing group.

(4) Except for HIV information, case record information may be requested by the client and released to the client by telephone. The client must satisfy the branch as to the client's identity.

(5) Except as provided in this rule and in OAR 410-014-0030(6), information obtained from a third party that is part of the case record of the client is available to the client.

(6) The Department may withhold from a client information obtained from a confidential informant, including the identity of the informant, if all of the following are true:

(a) The information was submitted to the Department in confidence.

(b) The information was not required by law to be submitted.

(c) The information can reasonably be considered confidential.

(d) The Department has obliged itself not to disclose the information.

(e) The Department is not using the withheld information in a contested case hearing in which the client is a party.

(f) The public interest would suffer if the information were disclosed.

(7) Subject to OAR 407-003-0010:

(a) A client, an authorized representative (as defined at OAR 461-115-0090, 461-115-0140, and 461-115-0145), or a personal representative (as defined at 410-014-0000(32), including an attorney who represents the client on a matter before the Department) may request a copy of information from the client file at no cost once every 12 months. If the client, authorized representative, or personal representative requests another copy of the same information already provided more frequently than once every 12 months, the branch office may impose a reasonable, cost-based fee.

(b) If an authorized third party who is not an authorized representative or personal representative requests client records, fees may be assessed for accessing stored records, extracting filed matter, duplication of records, or other costs necessary to releasing requested information.

(c) A branch office may establish additional, reasonable fees to cover extraordinary costs of duplicating records, making extensive searches, or preparing written summaries of records.

(d) At the option of the branch office, fee assessment may be waived.

(8) An individual designated by the manager must be present while the client or the authorized third party has access to the case record. No one except a Department employee is allowed to remove any material from the case record. Subject to payment of any cost-based fee assessed by a branch office consistent with OAR 407-003-0010 and this rule, the branch office will provide the individual examining the case record a copy of any portion of the case record that the individual is entitled to examine.

Stat. Auth.: ORS 411.060, 411.300, 411.816, 412.049

Stats. Implemented: ORS 410.150, 411.060, 411.117, 411.300, 411.320, 411.335, 411.816, 411.837, 412.049, 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

461-105-0070

Client Authorization for Release of Client Information to Third Party

For any program covered by chapter 461 of the Oregon Administrative Rules, except for health, treatment, and domestic violence information, a verbal authorization from the client is permitted to allow verbal release of case record information specified by the client to third parties. Any such verbal authorization to release information to a third party is valid for a period of 30 days from the date the authorization is given verbally, unless a shorter time period is given.

Stat. Auth.: ORS 411.060, 411.300, 411.816, 412.049

Stats. Implemented: ORS 410.150, 411.060, 411.117, 411.300, 411.320, 411.335, 411.816, 411.837, 412.049, 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06

461-105-0100

Release of Client Information to Law Enforcement Officers

For any program covered by chapter 461 of the Oregon Administrative Rules:

(1) The Department may provide client information to a law enforcement officer in any of the following situations:

(a) The law enforcement officer is involved in carrying out public assistance or medical assistance laws, or any investigation, criminal or civil proceedings connected with administering the Department's benefit programs.

(b) A Department employee may disclose information from personal knowledge that does not come from the client's interaction with the Department.

(c) The disclosure is authorized by statute or administrative rule.

(2) Except as provided in section (3) of this rule, the Department may give a client's current address, Social Security number, and photo to a law enforcement officer if the law enforcement officer makes the request in the course of official duty, supplies the client's name, and states that the client:

(a) Is a fugitive felon or is violating parole or probation; or

(b) For all programs except SNAP, has information that is necessary for the officer to conduct official duties of the officer, and the location or apprehension of the client is within the officer's official duties. For clients only in the SNAP program, has information that is necessary to conduct an official investigation of a fugitive felon or someone violating parole or probation.

(3) If domestic violence has been identified in the household, section (2) of this rule does not authorize the release of information about a victim of domestic violence unless a member of the household is either wanted as a fugitive felon or is violating probation or parole.

(4) For purposes of the rules in Division 461-105, a fugitive felon is a person fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony

(5) For purposes of the rules in Division 461-105, a law enforcement officer is an employee of the Oregon State Police, a county sheriff's department, or a municipal police department, whose job duties include arrest authority.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 409.010, 410.150, 411.060, 411.117, 411.320, 411.335, 411.404, 411.816, 411.837, 412.014, 412.049

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-105-0110

Release of Client Information to Service Providers and Legal Bodies

For any program covered by chapter 461 of the Oregon Administrative Rules, in the absence of a specific and current client authorization that covers the applicable information and identifies the recipient:

(1) Department employees may release to service providers information necessary for accurate billing of services provided to Department clients.

(2) The following client information may be released to the client's child care providers:

(a) The program for which the client is eligible.

(b) The amount of the Department child care payment.

(c) The client's copayment amount.

(d) Reasons for a delay in payment, but only information that is specific to the reason for the delay.

(3) The Department may not disclose any information identifying any client by name or address to any committee, advisory board, legislative body, or individual member of such committee, board, or body.

(4) Except for social security numbers, health, treatment, and domestic violence information, the Department may disclose the minimum necessary information about a client to a staff member in the office of a member of the Oregon state legislature or United States Congress who has been asked by the client to review an action taken by the Department.

(5) Court-appointed special advocate (CASA) volunteers who have been appointed to a specific child are authorized to view information about the child. All other information must be removed from the case file.

(6) The Department may release client information in a judicial proceeding if at least one of the following is true:

(a) The proceedings are directly connected with administering the programs covered by chapter 461 of the Oregon Administrative Rules.

(b) A judge orders the release of the information.

(7) When appearing before the court in a judicial proceeding where the proceeding is not directly connected with administering a program covered by chapter 461 of the Oregon Administrative Rules, a Department employee provides the presiding judge with copies of the state statutes relating to confidentiality of client records (such as ORS 411.117, 411.320, and 418.130). The employee requests the court's guidance about testifying under the statutes.

Stat. Auth.: ORS 411.060, 411.300, 411.816, 412.049

Stats. Implemented: ORS 410.150, 411.060, 411.117, 411.300, 411.320, 411.335, 411.816, 411.837, 412.049, 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06

461-105-0120

Release of Information on Child Support and Paternity Cases

(1) For the purposes of this rule, the following terms have the following definitions:

(a) "Alleged father" means any male who has been named as a possible father of a child for whom paternity has not been established or has been contested.

(b) "Obligee" means a caretaker parent or custodian, spouse, former spouse or other dependent person for whose benefit a court or hearing officer has ordered payment of support.

(c) "Obligor" means any person who has been ordered by a court or hearing officer to make payments for the support of a child or a caretaker parent or custodian, spouse, former spouse or other dependent person.

(2) For any program covered by chapter 461 of the Oregon Administrative Rules, in the absence of a specific and current client authorization that covers the applicable information and identifies the recipient, the Department may release to the Department of Justice, Division of Child Support, the names of the alleged father, the obligor, and the obligee, the amount of support ordered, and the amount of current and past due support owed at any given time from its electronic files.

Stat. Auth.: ORS 411.060, 411.300, 411.816, 412.049

Stats. Implemented: ORS 410.150, 411.060, 411.117, 411.300, 411.320, 411.335, 411.816, 411.837, 412.049, 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06

461-105-0130

Disclosure of Client Information

For any program covered by chapter 461 of the Oregon Administrative Rules:

(1) The Department may disclose the minimum necessary client information without client authorization for purposes directly connected with:

(a) Administering the public assistance, medical assistance, and SNAP program laws, except for social security numbers, health, treatment, and domestic violence information.

(b) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with administering the programs covered by chapter 461 of the Oregon Administrative Rules.

(c) Any legally authorized audit or review by a governmental entity conducted in connection with administering the programs covered by chapter 461 of the Oregon Administrative Rules.

(2) Client information, other than health or treatment information, may be exchanged with other governmental or private, non-profit agencies to only the extent necessary to assist applicants or recipients of public assistance, medical assistance, or SNAP benefits to access and receive other governmental or private, non-profit services that will benefit or serve the applicant or recipient. Reasonable efforts must be made to obtain applicant or recipient authorization in advance.

(3) For all programs except SNAP, client information may be disclosed without the client's authorization for purposes directly connected with foster care and adoption assistance programs under Title IV-E of the Social Security Act.

(4) Notwithstanding any rule in this division, client information— other than health or treatment information — may be disclosed to an Oregon attorney who represents that client if both of the following requirements are met:

(a) The attorney states that he or she currently is representing the client.

(b) The attorney states that the client has authorized disclosure of the client information to the attorney.

Stat. Auth.: ORS 411.060, 411.300, 411.816, 412.049

Stats. Implemented: ORS 410.150, 411.060, 411.117, 411.300, 411.320, 411.335, 411.816, 411.837, 412.049, 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-105-0150

Requests and Fees for Written Public Records

(1) A request for written public records from the Office of Self-Sufficiency Programs must be in writing and must specifically identify the record being requested, the number of copies requested, and the name and address of the individual or entity making the request.

(2) The topic of fees for public records is covered in OAR 407-003-0010 and 461-105-0060.

Stat. Auth.: ORS 192.430, 409.050, 411.060, 411.816, 412.049

Stats. Implemented: ORS 192.430, 192.440, 409.010, 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 24-2001, f. & cert. ef. 11-1-01; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

461-105-0180

Nondiscrimination in Determining Eligibility

Determine eligibility without discrimination on the basis of race, color, sex, national origin, disability, political beliefs, age, or religious creed.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96

461-105-0190

Discriminatory Actions

(1) The rules of the Department protecting individuals with disabilities against discrimination are set out at OAR 407-005-0000 to 407-005-0030.

(2) The following acts of discrimination on grounds of race, color, sex, political beliefs, age, religious creed or national origin are specifically prohibited:

(a) Denying an individual any service, financial aid, or other benefit provided under any program.

(b) Providing any service, financial aid, or other benefit to an individual that is different, or is provided in a different way, from that provided to others under the program, unless such action is necessary to provide individuals with disabilities with aids, benefits or services that are as effective as those provided to others.

(c) Subjecting an individual to segregation or separate treatment in any way related to receipt of any service, financial aid, or other program benefit.

(d) Restricting an individual in any way from any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under any program.

(e) Treating an individual differently from others in determining whether they satisfy any admission, enrollment, quota, eligibility, membership or other requirement or condition individuals must meet to be provided any service, financial aid, or other benefit provided under any program.

(f) Denying an individual an opportunity to participate in any program or afford them an opportunity to do so that is different from that afforded others under the program.

(g) Denying a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

Stat. Auth.: ORS 409.050, ORS 411.060, 411.070, 411.816, 412.049
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-105-0410

Client Requirement to Cooperate in Quality Control Review; ERDC, SNAP, REF, REFM, and TANF

(1) In the ERDC, SNAP, REF, REFM, and TANF programs, clients are required to cooperate in the Department's quality control review process.

(2) In the ERDC, REF, REFM, and TANF programs, a client who refuses to cooperate is ineligible for the program in which the review takes place until the client cooperates.

(3) In the SNAP program, if a client refuses to cooperate, the client's *filing group* (see OAR 461-110-0370) is ineligible for the program. The client may choose to cooperate at any time. If the SNAP benefits have not already closed, the filing group does not need to reapply. The *filing group*, upon filing a new application, may again be found eligible only in accordance with federal Food Stamp regulations in 7 CFR 273.2(d)(2).

Stat. Auth.: ORS 411.060, 411.816, 414.042, 412.049
Stats. Implemented: ORS 411.060, 411.816, 414.042, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 24-2001, f. & cert. ef. 11-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

DIVISION 110

ELIGIBILITY GROUPS

461-110-0210

Household Group

(1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless individuals, the household group consists of the individuals who consider themselves living together.

(2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.

(3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.

(4) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:

(a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value (see OAR 461-001-0000) for housing.

(b) The tenant lives independently from the landlord.

(c) The tenant:

(A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or

(B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.

(5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:

(a) In the ERDC program, if a child (see OAR 461-001-0000) lives with different caretakers during the month, the child is considered a member of both household groups.

(b) In the TANF program:

(A) If a parent (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the dependent child (see OAR 461-001-0000), the parent is in the same household group as the dependent child.

(B) A dependent child is included in the household group with the caretaker relative (see OAR 461-001-0000), who usually has the major responsibility for care and control of the dependent child, if the dependent child lives with two household groups in the same calendar month for at least one of the following reasons:

(i) Education.

(ii) The usual caretaker relative is gone from the household for part of the month because of illness.

(iii) A family emergency.

(c) In the SNAP program:

(A) The individual is a member of the household group that provides the individual more than half of his or her 21 weekly meals. If the individual is a child, the child is a member of the household group credited with providing the child more than half of his or her 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the child departs that group's home for school, even if the child eats no breakfast or lunch at that home.

(B) During the month in which a resident of a domestic violence shelter (see OAR 461-001-0000) enters the domestic violence shelter, the resident may be included both in the household group he or she left and in a household group in the domestic violence shelter.

(6) In the OSIPM program, individuals receiving or applying for home and community-based care (see OAR 461-001-0030) or nursing facility care are each an individual household group regardless of others living in the individual's dwelling or facility.

(7) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:

(a) In all programs except the SNAP program, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care (see OAR 461-001-0000).

(b) In the ERDC and TANF programs:

(A) A caretaker relative who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.

(B) A child who is absent for 30 days or more is in the household group if the child is:

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons;

(ii) In foster care, but expected to return to the household within the next 30 days.

(c) In the ERDC, REF, and REFM programs, an individual in the household group who is:

(A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;

(B) Absent to care for an emergent need of an individual related to illness, injury, or death; or

(C) Absent but reasonably anticipated to return within 90 days.

(d) In the TANF program, when a filing group (see OAR 461-110-0330) includes more than one caretaker relative, a caretaker relative in the household group who is absent because of education,

training, or employment, including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces.

(e) In the TANF program, the Department may approve one or more 30-day extensions of this time period if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period.

(8) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.006, 412.049, 413.085, 414.025, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 5-1999(Temp), f. & cert. ef. 4-1-99 thru 6-30-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 17-2015, f. & cert. ef. 6-30-15

461-110-0310

Filing Group; Overview

(1) The requirements specific to individual programs for how the Department determines the members of a filing group are found in OAR 461-110-0330 to 461-110-0430.

(2) The filing group consists of the individuals from the *household group* (see OAR 461-110-0210) whose circumstances are considered in the eligibility determination process. The filing group consists of the following:

(a) Each individual from the *household group* who chooses to apply for benefits; and

(b) Each individual who must apply for benefits because of his or her relationship to an individual described in subsection (a) of this section.

(3) If the filing group does not include at least one applicant who meets all nonfinancial eligibility requirements, the filing group is ineligible.

(4) When an individual in a *household group* is in more than one filing group for the same program, the filing groups must be combined, unless specified otherwise in administrative rule.

Stat. Auth.: ORS 411.060, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.816, 411.825, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11

461-110-0330

Filing Group; TANF

(1) A filing group must include a dependent child (see OAR 461-001-0000) or unborn child and the following household group (see OAR 461-110-0210) members (even if the member is not an applicant or does not meet nonfinancial eligibility (see OAR 461-001-0000) requirements):

(a) Each parent (see OAR 461-001-0000) of a dependent child in the filing group.

(b) Each parent of an unborn child in the filing group.

(c) Each sibling (see OAR 461-001-0000) of a dependent child in the filing group, except as specified in sections (2) and (3) of this rule. The sibling must be less than 18 years of age, or 18 years of age and attending school full time.

(d) A caretaker relative (see OAR 461-001-0000) of the dependent child in the filing group, and the spouse (see OAR 461-001-0000) and each dependent child of the caretaker relative.

(2) A dependent child is not included in the filing group if he or she:

(a) Is or will be receiving foster care payments for more than 30 days (see OAR 461-145-0200);

(b) Is receiving adoption assistance (see OAR 461-145-0001); or

(c) Is receiving Title IV-E subsidized guardianship assistance payments (see OAR 461-145-0200).

(3) A parent of a minor parent (see OAR 461-001-0000) is not in the filing group of the minor parent if:

(a) The minor parent does not reside with his or her parent; or

(b) The parent of the minor parent is in the household group of the minor parent but is not applying for the TANF program for the minor parent or any sibling of the minor parent.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.064, 412.124

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-110-0350

Filing Group; ERDC

In the ERDC program:

(1) The *filing group* consists of each of the following applicants and household group (see OAR 461-110-0210) members, even if the individual does not meet nonfinancial eligibility requirements:

(a) The caretaker (see OAR 461-001-0000) of the child for whom ERDC benefits are requested, except this does not apply to a child care provider caring for the child of an individual:

(A) Who is a member of a National Guard or U.S. Armed Forces Reserve unit; and

(B) Who has been called to active duty away from the child's home for more than 30 days.

(b) An unmarried child and any sibling (see OAR 461-001-0000), less than 18 years of age or 18 years of age and attending secondary school or vocational training at least half time, in the care and custody of the caretaker. A foster child is included if the caretaker wants to include the child in the need group (see OAR 461-001-0000).

(c) Any parent (see OAR 461-001-0000) of a child required to be in the filing group.

(d) Any parent of an unborn child, if the sibling of the unborn child is required to be in the filing group.

(e) The spouse (see OAR 461-001-0000) of the caretaker.

(2) A minor parent (see OAR 461-001-0000) may form a separate filing group with his or her dependent child or children when the minor parent applies as the caretaker.

Stat. Auth.: ORS 409.050 & 411.060

Stats. Implemented: ORS 409.010 & 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 32-2003(Temp), f. & cert. ef. 12-17-03 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 1-2014(Temp), f. & cert. ef. 1-8-14 thru 7-7-14; SSP 15-2014, f. & cert. ef. 7-1-14

461-110-0370

Filing Group; SNAP

In the SNAP program:

(1) Except as provided in this rule, the filing group (see OAR 461-110-0370) consists of members of a household group (see 461-110-0210) who choose to apply together or customarily purchase and prepare meals together.

(2) Except as provided in sections (3) and (8) of this rule, the following household group members must be in the same filing group, even if they do not customarily purchase and prepare meals together:

(a) Each spouse (see OAR 461-001-0000).

(b) A parent (see OAR 461-001-0000) and his or her child under age 22 living with the parent.

(c) A household group member and any child under age 18 who lives with and is under “parental control” of that household group member. For the purposes of this subsection, “parental control” means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(3) In the following specific situations, the Department forms a filing group as indicated:

(a) An individual is not included in the filing group if, during the month the group applied for SNAP program benefits, the individual received SSI benefits through the state of California. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(b) An individual is not included in the filing group if during the month the group applied for SNAP program benefits the individual received SNAP program benefits in another household and was not the head of household in the prior household. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(c) An elderly (see OAR 461-001-0015) individual and his or her spouse may be considered a separate filing group from others with whom the elderly individual purchases and prepares meals, if:

(A) The elderly individual is unable to purchase or prepare food because of a permanent and severe disabling condition; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE.]

(4) A paid live-in attendant may choose not to be in the filing group with the recipient of the services provided, unless required by section (2) of this rule to be in the same filing group.

(5) An individual in foster care, the individual’s spouse, and each child under age 22 living with the individual are not eligible to participate in the SNAP program independently of the care or service provider’s filing group, but may be included in the provider’s filing group if the provider applies for benefits.

(6) Unless required under section (2) of this rule, the following household group members may form a separate filing group from other members of the household group:

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550). A resident’s spouse in the same facility may be in a separate filing group, but a child of a resident must be in the same filing group as the resident.

(b) A resident in group living (see OAR 461-001-0015).

(c) A resident of a public or private non-profit homeless or domestic violence shelter (see OAR 461-135-0510).

(d) An individual who is a resident of federally subsidized housing for the elderly, an individual with a disability, or blind recipient of benefits under Title I, II, X, XIV, or XVI of the Social Security Act.

(7) A member of the household group who pays the filing group for room and board (lodger) is treated as follows:

(a) A lodger cannot participate in the SNAP program independently of the household group when the lodger pays a reasonable amount for room and board. A reasonable amount is:

(A) An amount that equals or exceeds the Thrifty Food Plan for the individual and anyone in that individual’s filing group (see OAR 461-155-0190(2)), if more than two meals per day are provided; or

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the individual and anyone in the individual’s filing group, if two or fewer meals per day are provided.

(b) A lodger may participate in the SNAP program independently of the household group when the lodger pays less than a reasonable amount for room and board.

(8) A household group member is not included in the filing group, if the member is:

(a) A resident of a commercial boarding house; or

(b) An ineligible student, as defined in OAR 461-135-0570.

(9) A household group member may be included in two filing groups in the same month, if the member:

(a) Is a resident of a domestic violence shelter (see OAR 461-001-0000) or safe home (see 461-001-0000); and

(b) Recently left the household group containing the member’s abuser.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-110-0390

Filing Group; GA, GAM

In the GA and GAM programs, the filing group consists of the applicant and the applicant’s *spouse* (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11

461-110-0410

Filing Group; OSIP, OSIPM, QMB

(1) In the OSIPM program (except OSIPM-EPD), for applicants who live in a *standard living* arrangement (see OAR 461-001-0000), the filing group consists of each applicant and the following household members:

(a) The spouse (see OAR 461-001-0000) of an applicant.

(b) Each parent (see OAR 461-001-0000) of a child (see OAR 461-001-0000), if the child is applying and not assumed eligible.

(2) In the OSIPM program (except OSIPM-EPD), when individuals live in a nonstandard living arrangement (see OAR 461-001-0000), the filing group consists only of the individual applying for benefits.

(3) In the OSIPM-EPD program, the filing group consists only of the individual applying for benefits.

(4) In the QMB program, whether in a standard living arrangement or a nonstandard living arrangement, the filing group consists of each applicant and the following household members:

(a) The spouse of an applicant.

(b) Each parent of a *child*, if the child is applying and not assumed eligible.

(c) Each child of the applicant, if the applicant wants to include the child in the need group (see OAR 461-110-0630).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 15-2014, f. & cert. ef. 7-1-14

461-110-0430

Filing Group; REF, REFM

In the REF and REFM programs:

(1) The filing group consists of:

(a) A single adult (see section (2) of this rule) who has no spouse (see OAR 461-001-0000) or dependent child (see 461-001-0000) in the household group (see 461-110-0210); or

(b) A legally married (see OAR 461-001-0000) couple who is in the same household group and has no dependent child in the household group.

(2) For purposes of this rule, an “adult” means an individual 18 years of age or older who is not attending secondary school full-time or pursuing a GED full-time.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006 & 412.049
 Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.116, 412.006 & 412.049
 Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 412.006 & 412.049
 Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 9-2013(Temp), f. & cert. ef. 4-10-13 thru 10-7-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15

461-110-0530

Financial Group

(1) Except as provided in section (4) of this rule, the “financial group” consists of the filing group (see OAR 461-110-0310) members whose income and resources the Department considers in determining eligibility (see 461-001-0000) and benefits.

(2) In the ERDC, GA, OSIPM-EPD, QMB, and SNAP programs, the “financial group” consists of each individual in the filing group.

(3) In the REF and REFM programs, the “financial group” consists of each individual in the filing group, except an individual who is eligible for and receives an SSI cash payment.

(4) In the OSIPM (except OSIPM-EPD) program:

(a) For the purposes of this section of this rule, “ineligible” means an individual not eligible to receive either SSI or TANF program benefits.

(b) When an individual lives in a standard living arrangement (see OAR 461-001-0000):

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the “financial group”.

(B) When an individual, whose eligibility is not determined under certain protected groups (see OAR 461-135-0771 to 461-135-0830), is married, not assumed eligible (see 461-135-0010) for OSIPM, and the individual’s spouse (see 461-001-0000) is considered “ineligible” (see subsection (a) of this section):

(i) If the individual’s adjusted income (see OAR 461-001-0000) using the deductions allowed under 461-160-0550(4) is greater than the OSIPM program adjusted income standard for a need group of one under 461-155-0250, the individual is in his or her own “financial group” and not eligible for OSIPM.

(ii) When there are children in the home, if the ineligible spouse’s remaining countable (see OAR 461-001-0000) income after allocation (see 461-160-0551) to each ineligible child is equal to or less than the difference between the couple and the individual SSI standards: the spouse is not included in the “financial group” when determining income eligibility; however, the spouse is included in the “financial group” when determining resource eligibility.

(iii) When there are no children in the home, if the ineligible spouse’s countable income is less than the difference between the couple and the individual SSI standards: the spouse is not included in the “financial group” when determining income eligibility; however, the spouse is included in the “financial group” when determining resource eligibility.

(c) When an individual lives in a nonstandard living arrangement (see OAR 461-001-0000), the “financial group” consists only of the individual applying for benefits, except that the community spouse (see OAR 461-001-0030) is included in the “financial group” to determine initial eligibility. At initial eligibility, the resources of the community spouse are considered and the provisions of 461-160-0580 apply. The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.

(5) In the TANF program, the “financial group” consists of each individual in the filing group except the following:

(a) A caretaker relative, other than a parent, who chooses not to be included in the need group and has income less than the non-needy countable income limit standard (see OAR 461-155-0030) for the filing group of the caretaker relative;

(b) The spouse of a caretaker relative, when the caretaker relative meets the requirements under subsection (a) of this section;

(c) A dependent child of a caretaker relative when the caretaker relative meets the requirements under subsection (a) of this section;

(d) An individual in the filing group solely due to the requirements of OAR 461-110-0310(2)(b); and

(e) An individual who is eligible for and receives an SSI cash payment.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712, 414.826, 414.839
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 14-2009(Temp), f. & cert. ef. 7-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-110-0630

Need Group

(1) The “need group” consists of the individuals whose basic and special needs are used in determining eligibility (see OAR 461-001-0000) and benefit level.

(2) In the EA, REF, and REFM programs, the need group consists of the members of the financial group (see OAR 461-110-0530) who meet all nonfinancial eligibility requirements, except that members disqualified for an intentional program violation are not in the need group.

(3) In the ERDC, OSIPM-EPD, and QMB programs, the need group consists of each member of the financial group.

(4) In the SNAP program, the need group consists of the members of the financial group who meet all nonfinancial eligibility requirements, except the following individuals are not in the need group:

(a) A member disqualified for an intentional program violation (see OAR 461-195-0601).

(b) A fleeing felon under OAR 461-135-0560.

(c) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(5) In the GA and GAM programs, the need group consists of each member of the financial group except that the following individuals may not be in the need group:

(a) A fleeing felon under OAR 461-135-0560.

(b) An individual in violation of a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(c) An individual not complying with social security number requirements under OAR 461-120-0210.

(6) In the TANF program, the need group is formed as follows:

(a) Except as provided in subsection (b) of this section, the need group consists of the members of the financial group who meet all nonfinancial eligibility requirements other than the citizenship and alien status requirements of OAR 461-120-0110 or the citizenship documentation requirements of OAR 461-115-0705.

(b) The need group may not include:

(A) A parent (see OAR 461-001-0000) who is in foster care and for whom foster care payments are being made.

(B) An unborn child.

(C) In the TANF program:

(i) An individual who may not be in the need group because of a disqualification penalty.

(ii) An individual who may not be in the need group because the individual has exceeded the 60-month time limit and does not meet any of the exceptions listed in OAR 461-135-0075.

(iii) A fleeing felon under OAR 461-135-0560.

(iv) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(7) In the OSIPM (except OSIPM-EPD) program:

(a) If a child is applying, the need group consists of the child.

(b) In all other situations, the need group consists of each member of the financial group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049 & 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-110-0750

Benefit Group

(1) A "benefit group" consists of the individuals who receive benefits.

(2) Except as provided in section (3) of this rule, for an individual not assumed eligible (see OAR 461-135-0010), the benefit group consists of each individual from the *need group* (see OAR 461-110-0630) requesting benefits who meets all financial and nonfinancial eligibility requirements.

(3) In the GA and GAM programs, the following individuals are not in the benefit group:

(a) An individual receiving or deemed to be receiving SSI or SSDI benefits.

(b) An individual who meets the non-disability eligibility requirements under Title II of the Social Security Act.

(4) For individuals assumed eligible (see OAR 461-135-0010), the benefit group consists of the individuals who are in the benefit group of the program used to assume eligibility.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11

DIVISION 115

APPLICATION, REDETERMINATION, AND VERIFICATION

461-115-0010

Application Process; General

(1) A client may apply for one or more programs using one application, under the time frames and eligibility requirements that apply to each program for which the client is applying. The Department redetermines eligibility at assigned intervals and whenever a client's eligibility becomes questionable.

(2) If the Department requires additional information to determine eligibility, the client is entitled to a written notice that includes a statement of the specific information needed to determine eligibility and the date by which the client must provide the required information.

(3) The Department ensures that an application form is readily available to anyone requesting one and assists clients who are unable to complete the application form or gather information necessary to verify eligibility.

(4) The Department must screen each applicant to determine whether the applicant is eligible for expedited food stamp services or is at risk of being a victim of domestic violence (see OAR 461-001-0000).

(5) In the SNAP program, a filing group is entitled to establish a filing date on the date they request benefits.

(6) If a client files an application containing the client's name and address, the Department must send the client a *decision notice* (see OAR 461-001-0000).

(7) A client may withdraw an application at any time.

Stat. Auth.: ORS 411.060, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07

461-115-0016

Application Process; Reservation List for ERDC

Notwithstanding any other rule in chapter 461 of the Oregon Administrative Rules, in the ERDC program:

(1) Eligibility (see OAR 461-001-0000) is subject to the availability of funds. The Department may implement a Child Care Reservation List whenever the Department determines that sufficient funding is not available to sustain benefits for all of the applicants requesting assistance.

(2) Except as provided in section (3) of this rule, the following applicants are subject to placement on the Child Care Reservation List when the Child Care Reservation List is in effect:

(a) New applicants for ERDC when no member of the ERDC filing group (see OAR 461-110-0350) meets the requirements of one or more of the following paragraphs:

(A) Received a partial or full month of REF, SFPSS, or TANF program cash benefits from the State of Oregon in at least one of the preceding three months; and no member of the ERDC program filing group may be concurrently receiving TANF program benefits except as allowed under OAR 461-165-0030.

(B) Is eligible for and being placed in a current opening in a Head Start program contracted slot under OAR 461-135-0405 or an Oregon Program of Quality contracted slot under OAR 461-135-0407.

(C) The caretaker (see OAR 461-001-0000) is currently working with Child Welfare as part of a CPS assessment or open case, an ongoing safety plan is in place, and Child Welfare has determined the use of child care as part of an ongoing safety plan will:

(i) Prevent removal of the child (see OAR 461-001-0000) from their home;

(ii) Allow a child to be returned home; or

(iii) Allow for placement of the child with a relative or with an adult whom the child or the family of the child has an established relationship.

(D) Determined eligible for TA-DVS program benefits (see OAR 461-135-1225) from the State of Oregon in the current month or at least one of the preceding three months.

(b) Individuals who are reapplying for ERDC after a break in ERDC benefits of two consecutive, calendar months or more.

(3) Except as allowed under OAR 461-165-0030, no member of an ERDC program filing group may be concurrently receiving TANF program benefits. When concurrent benefits are not allowed, the Department sends a decision notice (see OAR 461-001-0000) of ineligibility for the ERDC program and the filing group is not placed on the Child Care Reservation List.

(4) When the Child Care Reservation List is in effect, the Department must place all applicants who are subject to the Child Care Reservation List under section (2) of this rule on the Child Care Reservation List for future selection. The Department sends these applicants a decision notice of ineligibility for the ERDC program.

(5) Each month, on the basis of an estimate of available funds, an appropriate number of individuals from the Child Care Reservation List are randomly selected and invited to apply for ERDC.

(6) After an individual is selected from the Child Care Reservation List, the individual must contact the Department to establish a date of request (see OAR 461-115-0030) no later than 30 days after the date on the selection letter. The individual may request child care benefits from the Department:

(a) Without completing a new application, when the previous application is within 45 days of its date of request; or

(b) By submitting a new application for child care benefits to the Department.

(7) The processing time frame for the ERDC application is the same as that specified in OAR 461-115-0190, except that:

(a) An individual who requests benefits after the 30 day deadline to apply (see section (6) of this rule) will be returned to the Child Care Reservation List.

(b) If the Department does not receive a request for benefits within the deadline to apply, the individual is dropped from the Child Care Reservation List.

Stat. Auth.: ORS 409.050, 411.060 & 411.116

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.121, 411.122 & 411.135

Hist.: SSP 23-2011(Temp), f. & cert. ef. 8-1-11 thru 1-27-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 29-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 25-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; SSP 10-2015, f. 3-12-15, cert. ef. 3-31-15

461-115-0020

Application Requirements

To complete the application process, the applicant or his or her authorized representative must complete and sign an application, apply at the appropriate location, provide necessary information to the Department within the time frames specified for each program, and meet the interview requirements of OAR 461-115-0230.

Stat. Auth.: ORS 411.050, 411.060 & 411.070

Stats. Implemented: ORS 409.050, 411.060 & 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00

461-115-0030

Date of Request

(1) For all programs covered by OAR chapter 461, an individual or someone authorized to act on behalf of an individual must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The “date of request” is one of the following:

(a) In the EA, ERDC, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the “date of request” is the day the request for benefits is received by the Department.

(b) In the SNAP program, this section does not apply. See OAR 461-115-0040.

(c) In the GAM, OSIPM, QMB, and REFM programs, for a new applicant, the “date of request” is determined as follows:

(A) The day the request for medical benefits is received by a Department representative, except as described in paragraph (B) of this subsection.

(B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the “date of request” is the day these medical services were received.

(d) In the OSIPM, QMB, and REFM programs, for a current recipient, the “date of request” is one of the following:

(A) The date the individual reports a change requiring a re-determination of eligibility (see OAR 461-001-0000).

(B) The date the Department initiates a review.

(C) The date the individual establishes a “date of request” by contacting the Department orally or in writing or by submitting an application.

(e) In the SFPSS program:

(A) Except as provided in paragraph (B) of this subsection, the “date of request” is the day the individual signs the Interim Assistance Agreement.

(B) The “date of request” for support service payments is the day the request for benefits is received by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.041, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 2-21-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 23-2011(Temp), f. & cert. ef. 8-1-11 thru 1-27-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0040

Filing Date; REF, SNAP, TANF

(1) In the REF and TANF programs, the “filing date” is established when a signed and dated application for benefits is received by the Department.

(2) In the SNAP program:

(a) A filing group (see OAR 461-110-0370) is entitled to establish a “filing date” on the date a member of the group requests benefits. The “filing date” establishes:

(A) The date for starting the application processing time frames.

(B) The date from which some effective dates are determined.

(b) The “filing date” is the date a signed written request for benefits is received by the Department or by the Social Security Administration for filing groups applying in accordance with OAR 461-115-0150(3). The written request may be a Department-approved form or other written material that includes the client’s name, address, and signature.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.049
 Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 412.006, 412.049, 412.054, 412.064
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0050

When an Application Must Be Filed

(1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:

(a) An individual may apply for the TA-DVS program as provided in OAR 461-135-1220.

(b) In all programs except the TA-DVS program:

(A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.

(B) An application is complete if all of the following requirements are met:

(i) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided on the application for each individual in the filing group (see OAR 461-110-0310).

(ii) The applicant, even if homeless, provides a valid mailing address.

(iii) The application is signed by the individual, the authorized representative (see OAR 461-115-0090 and 461-115-0140) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.

(I) An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(II) An individual submitting an electronic application (see OAR 461-001-0000) must submit the application with an electronic signature.

(2) A new application is not required in the following situations:

(a) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when:

(A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or

(B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), under 461-180-0080.

(b) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the date of request (see OAR 461-115-0030) and to determine the individual is eligible when anticipated changes make the filing group eligible within 45 days from the date of request.

(c) When the case is closed and reopened during the same calendar month.

(d) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(e) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.

(f) In the ERDC program, when a case closed during the certification period (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.

(g) In the GAM, OSIPM, and QMB programs, when the medical benefits of an individual are suspended because the individual

lives in a public institution (see OAR 461-135-0950), if the inmate is released within 12 months of admission and the inmate provides notification to the Department within 10 days of the release.

(3) When an individual establishes a new date of request prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:

(a) In the OSIPM program, when the individual’s case closed due to failure to make a liability payment required under OAR 461-160-0610.

(b) In the OSIPM-EPD program, when the individual’s case closed due to failure to make a participant fee payment required under OAR 461-160-0800.

(4) A new application is required to add a newborn child (see OAR 461-001-0000) to a benefit group (see OAR 461-110-0750) according to the following requirements:

(a) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.

(b) In the GAM, OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-135-0010) to a benefit group currently receiving Department medical program benefits.

(c) In the TANF program:

(A) A new application is not required if the child is listed on the application as “unborn” and there is sufficient information about the child to establish its eligibility.

(B) A new application is required if the child is not included on the application as “unborn.”

(d) In all programs other than ERDC, GAM, QMB, REF, REFM, SNAP, and TANF, an application is required.

(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:

(a) In the ERDC and SNAP programs, a new application is not required.

(b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(c) In all programs other than the ERDC, REF, REFM, SNAP, and TANF programs, a new application is required.

(6) An individual whose TANF grant is closing may request ERDC orally or in writing.

(7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:

(a) The individual makes an oral or written request for the change.

(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.

(c) The program change can be effected while the individual is eligible for the first program.

(8) In the OSIP, OSIPM, and QMB programs, a new application is not required to redetermine eligibility if the following conditions are met:

(a) The individual is currently receiving benefits from one of these programs.

(b) The Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility for the new program without a new application or by amending the current application.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.025, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.025, 414.041, 414.231, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. &

cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-1996, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 28-2014(Temp), f. & cert. ef. 10-29-14 thru 4-26-15; SSP 16-2015, f. & cert. ef. 4-1-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0071

Who Must Sign the Application and Complete the Application Process

(1) In the ERDC and TANF programs, the following individuals must sign the application and complete the application process:

(a) In the ERDC program, a caretaker (see OAR 461-001-0000).

(b) In the TANF program, at least one caretaker relative (see OAR 461-001-0000).

(2) In the EA program:

(a) A caretaker relative must sign the application and complete the application process for a child (see OAR 461-001-0000). If the child is not living with a caretaker relative, another adult may act on behalf of the child.

(b) If the caretaker relative lives with a spouse (see OAR 461-001-0000), both must sign the application.

(c) A dependent child 18 years of age who applies must sign the application and complete the application process.

(3) In the GA, GAM, OSIPM, and QMB programs, at least one adult requesting assistance must complete the application process and sign the application, if able. If there is no adult who is able to sign the application and complete the application process, this may be done by the authorized representative (see OAR 461-115-0090). If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the Department receives the required verification.

(4) In the REF and REFM programs, at least one adult member of the filing group (see OAR 461-110-0430) must sign the application.

(5) In the SNAP program, the primary person (see OAR 461-001-0015), the spouse of the primary person, or another adult member of the filing group (see 461-110-0370) must sign the application and complete the application process.

(6) An individual required to sign the application but unable to sign may sign with a mark, witnessed by an employee of the:

(a) Branch office (see OAR 461-001-0000); or

(b) Public institution (see OAR 461-135-0950), when the individual applying is an inmate (see 461-135-0950) and is applying for benefits under the OSIPM program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.400, 411.404, 411.816, 412.049

Hist.: SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 23-2010(Temp), f. & cert. ef. 7-15-10 thru 1-11-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 19-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0090

Authorized Representatives; General

(1) The head of household, spouse (see OAR 461-001-0000), or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the program, in reporting changes, in obtaining benefits, or in using benefits.

(2) In all programs except the SNAP program, the Department must allow a person or persons of the applicant's choice to act as the authorized representative unless the person may cause harm to the client or may be considered as having a conflict of interest.

(3) In all programs except the SNAP program, if an authorized representative is needed but has not been designated by the client, the Department will appoint one.

(4) In the SNAP program:

(a) Except as limited by sections (5) and (6) this rule, the selection of an authorized representative must be made in writing by an adult member of the household.

(b) The selection and authority of an authorized representative is further limited by OAR 461-115-0140.

(5) A client who resides in a drug addiction or alcoholic treatment center identified in OAR 461-135-0550(2) may apply for SNAP program benefits only through an authorized representative. The authorized representative must be an employee of and designated by the center.

(6) A client with a disability (see OAR 461-001-0015) who participates in the SNAP program while residing in a group living facility (see OAR 461-001-0015) may participate through an authorized representative or on his or her own behalf, at the option of the group living facility (see OAR 461-135-0510(2)(e)).

(7) In the TANF program, a person not related to the dependent child may serve as authorized representative or alternate payee for not more than 60 days.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12

461-115-0140

Authorized Representative or Alternate Payee; SNAP

In the SNAP program:

(1) None of the following may serve as authorized representative (see OAR 461-115-0090) or alternate payee:

(a) An individual serving an Intentional Program Violation, unless the Department determines no one else is available to serve as the authorized representative.

(b) A landlord or a vendor of goods or items who deals directly with the client, including a retailer authorized to accept SNAP benefits.

(c) Employees of the Department or an employee of a contractor involved in the certification and issuance processes for SNAP benefits, unless authorized in writing by the designee of the Department's SNAP Program Manager. The designee must determine no one else is available to serve as the authorized representative.

(d) A provider of meals for the homeless.

(2) An authorized representative or alternate payee who knowingly misrepresents the circumstances of the filing group (see OAR 461-110-0370) or misuses SNAP benefits is subject to penalty as follows:

(a) In group living (see OAR 461-001-0015) situations or treatment programs for drug addiction or alcohol abuse, the facility may be prosecuted under applicable federal or state law.

(b) For other authorized representatives and alternate payees not covered by subsection (a) of this section, the Department may prohibit the person from serving as a representative or payee for one year.

(3) Except as provided by this rule or by OAR 461-115-0090, a client may select his or her authorized representative or alternate payee.

Stat. Auth.: ORS 411.816
 Stats. Implemented: ORS 411.816
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12

461-115-0145

Responsibilities of a Center or Facility Acting as Authorized Representative; SNAP

In the SNAP program:

(1) Each state-certified drug or alcohol treatment center acting as an authorized representative (see OAR 461-115-0090 and 461-135-0550) and each group living (see OAR 461-001-0015) facility must provide the branch office monthly with a list of residents receiving SNAP benefits. The list must include a statement of validity signed by an official of the facility.

(2) Each center and facility covered by section (1) of this rule is responsible for notifying the branch office of changes in the resident's assets or other circumstances in accordance with the reporting system assigned to the case (see OAR 461-170-0011).

(3) When a resident moves out of a center or facility covered by section (1) of this rule, the center or facility must immediately comply with all of the following requirements:

- (a) Inform the branch office that the individual has moved out.
- (b) Stop acting as the individual's authorized representative.

(c) Inform the individual of the individual's receipt of SNAP benefits and the individual's need to report the new situation within 10 days to the local Department office.

(d) Stop using any benefits in the EBT account and refer the client to the local office for a new EBT card.

(e) If the resident moves prior to the 16th day of the month, ensure that the correct amount, not less than one-half of that month's allotment, is in the resident's EBT account.

(f) If the resident leaves on or after the 16th day of the month, the individual is entitled to any benefits posted to the EBT account at the time the individual leaves the center or facility.

(4) The center or facility is liable for all overpayments that occurred while the individual was a resident and the center or facility was acting as authorized representative (see OAR 461-195-0541).

(5) A center or facility authorized by the Food and Nutrition Service as a retail food store may be penalized or disqualified if it is determined the facility misappropriated or used benefits for a purchase that does not contribute to a meal of a certified filing group (see OAR 461-110-0370).

Stat. Auth.: ORS 411.816
 Stats. Implemented: ORS 411.816
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

461-115-0150

Offices Where Clients Apply

(1) For all programs, applicants must apply at the branch office (see OAR 461-001-0000) serving the area in which they live or work. Applicants temporarily in another area of the state should apply at the branch office serving that area. Applicants may also apply at other locations for the following programs:

(a) Homeless clients may apply with a Community Action Agency for the Housing Stabilization program.

(b) Applicants may apply for health coverage by:

- (A) Calling the Cover Oregon toll-free number;
- (B) Applying through the Cover Oregon online portal; or

(C) Contacting a federally qualified health center, a qualified hospital, a disproportionate-share hospital, or another entity authorized by rule.

(2) The Department has designated liaison branch offices for some groups of applicants (such as patients in state medical institutions and refugees). Those applicants must apply at the designated liaison branch office.

(3) REF and TANF applicants who meet the following requirements must apply through one of the local contracted refugee resettlement agencies:

(a) Have been in the US for eight months or less according to OAR 461-135-0900(4);

(b) Reside in Multnomah, Washington, or Clackamas County; and

(c) Meet the alien status requirements of OAR 461-120-0125(8)(a)–(h).

(4) SNAP applicants may apply at an office of the Social Security Administration if all members of the filing group (see OAR 461-110-0370) are applying for or are receiving SSI, and the filing group has not applied for or received SNAP benefits during the previous 30 days.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816
 Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.816
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0190

Application Processing Time Frames; Not SNAP or Pre-TANF

(1) In all programs except the EA, SNAP, Pre-TANF, and TA-DVS programs, the Department determines eligibility and sends a decision notice (see OAR 461-001-0000) not later than the 45th day after the *date of request* (see OAR 461-115-0030). The Department may extend the period if one or more of the following subsections applies:

(a) Information needed to determine eligibility is expected to be received after the 45-day deadline, and the client has no control over the information.

(b) Other circumstances beyond the control of the client prevent the Department from making the decision within the 45-day period.

(c) In the OSIPM program, the applicant has met all eligibility requirements except the Department must determine whether the applicant is blind or has a disability. In this case, the Department determines eligibility and sends a decision notice not later than the 90th day after the date of request. The Department may extend this period for any of the following reasons:

(A) The Department cannot reach a decision because the client or an examining physician or psychologist has not taken an action necessary for the decision to be made.

(B) There is an administrative or other emergency beyond the Department's control that impairs its ability to make the decision.

(2) In the EA program, the Department determines eligibility within one working day of the date of application or as soon thereafter as verification of emergent need is completed. Verification of all other factors may be waived if it would delay the client's receipt of assistance.

(3) For support service payments in the JOBS program (authorized by OAR 461-190-0211) and in the SFPSS program, the Department determines eligibility as follows:

(a) If the client is receiving an SFPSS or TANF grant in time to meet the need for which the request is made and not later than the 30th day after the date of request.

(b) If the client is not covered by subsection (a) of this section—in time to meet the need for which the request is made.

(4) In the TA-DVS program, OAR 461-135-1220 covers the following time requirements:

(a) Assessing the client's safety concerns and offering options to the client for addressing immediate safety needs.

(b) Determining eligibility after the application is complete, whether or not the client has signed the application.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 414.042, 412.049, 2007 OL 861
 Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049, 2007 OL 861
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-

1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-115-0210

Application Processing Time Frames; SNAP

(1) This rule applies in the SNAP program to an initial application and at recertification.

(2) The Department will determine eligibility and provide the benefit group the opportunity to participate as soon as possible. The application processing time frame for regular service is the 30 days immediately following the *filing date* (see OAR 461-115-0040) and not later than the 7th day following the *filing date* for expedited service.

(3) The application processing time frame for regular service includes:

- (a) An interview as soon as possible but not later than 20 days after the filing date (see OAR 461-115-0230 regarding interviews);
 - (b) Completion of required verification; and
 - (c) The eligibility determination.
- (4) The *filing date* remains effective for 60 days in both of the following situations:

(a) If the Department is not able to complete the application process within 30 days (for example, unable to schedule an interview by the 20th day following the *filing date*).

(b) If the applicant contacts the Department before the 30th day following the *filing date* and informs the Department that verification cannot be provided by the 30th day due to reasons beyond his or her control.

(5) If, for a reason within his or her control, the client fails to attend an interview by the 20th day following the *filing date*, and the interview occurs between the 20th and 30th days following the filing date, all verification must be provided not later than the 30th day following the *filing date*. If required verification is received after the 30th day, a new *filing date* is established as of the date the verification is received.

(6) If a client scheduled for an interview for expedited service fails to attend the interview without good cause, the client's application is processed for regular service.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-115-0230

Interviews

(1) In the REF, REFM, and TANF programs, the Department may conduct a required face-to-face interview by telephone or home visit if an authorized representative (see OAR 461-001-0000 and 461-115-0090) has not been appointed, and participating in a face-to-face interview is a hardship (see section (2) of this rule) for the household.

(2) For the purposes of this rule, "hardship" includes, but is not limited to:

- (a) Care of a household member;
 - (b) An individual's age, disability (see OAR 461-001-0000), or illness;
 - (c) A commute of more than two hours from the individual's residence to the nearest branch office (see OAR 461-001-0000);
 - (d) A conflict between the individual's work or training schedule and the business hours of the branch office; and
 - (e) Transportation difficulties due to prolonged severe weather or financial hardship.
- (3) In the SNAP program:

(a) An interview must be scheduled so that the filing group (see OAR 461-110-0370) has at least ten days to provide any needed verification before the deadline under OAR 461-115-0210.

(b) A face-to-face interview must be granted at the applicant's request.

(c) When an applicant misses the first scheduled interview appointment, the Department must inform the applicant by regular mail of the missed interview.

(d) An applicant who fails to attend a scheduled interview must contact the Department no later than 30 days following the filing date (OAR 461-115-0040) to be eligible for benefits.

(e) An adult (see OAR 461-001-0015) in the filing group or the authorized representative of the filing group is interviewed once every 12 months.

(4) In the ERDC program:

(a) Except as provided otherwise in subsection (c) of this section, an interview with an adult in the filing group (see OAR 461-110-0350) or the authorized representative of the filing group is required to process an initial application and a renewal of benefits.

(b) A phone interview is preferred; however, a face-to-face interview must be granted at the applicant's request.

(c) An interview is not required when the Department has implemented the Child Care Reservation List and it is determined that a decision notice of ineligibility will be sent under OAR 461-115-0016.

(5) In the OSIPM and QMB programs, the Department must complete an interview face-to-face in the branch office, by telephone, or during a home visit with at least one applicant who is 18 years of age or older or an applicant's authorized representative:

(a) At initial application.

(b) At redetermination except individuals who are assumed eligible (see OAR 461-135-0010).

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.706, 411.816, 412.049, 414.826, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 22-2011(Temp), f. & cert. ef. 7-22-11 thru 1-18-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 7-2012(Temp), f. & cert. ef. 2-29-12 thru 8-27-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0232

SNAP Mid Certification Period Review

In the SNAP program, a filing group (see OAR 461-110-0370) that is certified for 24 months (see OAR 461-115-0450) must provide the Department with updated information about their income, shelter and utility costs, and medical deductions between the first and 15th day of month 12 of their certification period (see OAR 461-001-0000) in order to continue receiving benefits. The Department follows the process outlined in OAR 461-180-0006 to adjust benefits based on this information.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-115-0430

Periodic Redeterminations; Not EA, ERDC, SNAP, or TA-DVS

The Department periodically redetermines the eligibility (see OAR 461-001-0000) of clients for benefits and assigns a redetermination date by which the next determination is required. The Department selects the redetermination date based on the client's circumstances and according to the following requirements:

(1) In the GA and GAM programs, the Department determines eligibility each 12 months.

(2) In the OSIP and OSIPM programs, the Department determines eligibility each 12 months for clients who are not eligible for

SSI. No redetermination is required for clients who are eligible for SSI.

(3) In the QMB program, the Department determines eligibility each 12 months for clients who are not eligible for SSI. For QMB recipients who are also eligible for OSIPM, a redetermination for QMB is completed with the redetermination of OSIPM.

(4) The REF and REFM programs are time limited programs; therefore, no periodic redeterminations are made.

(5) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.

(6) In the TANF program, benefits will end the last day of the certification period (see OAR 461-001-0000). The Department redetermines eligibility according to the following schedule:

(a) At least once every six months for each of the following:

(A) Clients not participating in an activity (see OAR 461-001-0025) of an open case plan (see 461-001-0025).

(B) Clients who are currently serving a JOBS disqualification.

(b) At least once every 12 months for all other clients.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0450

Periodic Redeterminations; SNAP

In the SNAP program, the Department selects the certification period (see OAR 461-001-0000) and the redetermination date based on the client's circumstances and according to the following considerations:

(1) The length of the certification period depends on how far in advance the circumstances affecting the group's eligibility can be predicted but may not exceed 12 months except as outlined in sections (2) and (4) of this rule.

(2) The certification period may be extended beyond 12 months in each of the following situations:

(a) To the end of the TBA period if the client becomes eligible for transitional benefits (see OAR 461-135-0506). If eligibility for TBA ends early, the certification period is changed to end on the last day of the month.

(b) To include the month after the client finishes working under a TANF JOBS Plus Agreement. If the agreement ends early, the certification period is changed to end on the original recertification date or on the last day of the month following the month in which the JOBS Plus agreement ends, whichever is later.

(3) A certification period of less than 12 months may be extended before the certification period ends, not to exceed 12 months, in each of the following situations:

(a) A one- or two-month certification period for expedited services when pending information is received, and eligibility and benefit level is determined based on the new information.

(b) An application or a change report form is received and eligibility is reviewed.

(c) The report system changes to SRS.

(4) A certification period of 24 months may be used for households in which all adult members are elderly or have a disability

(see OAR 461-001-0015). The household must also not include any earned income to qualify under this section.

(5) For each benefit group (see OAR 461-110-0750) in which all members are included in a cash or medical program, eligibility for SNAP and the other program benefits is determined at the same time when practicable.

(6) A client remains eligible for and continues to receive SNAP benefits on the normal issuance cycle if the application for recertification is filed with the Department and all required verification has been received by the Department:

(a) Not later than the 15th day of the month in which the certification expires; or

(b) In the case of a benefit group whose certification period is shorter than two months, not later than the 15th day after the Department provides notice that the certification period will expire.

(7) A client who files an application for recertification is eligible for a SNAP allotment without proration only if the filing date (see OAR 461-115-0040) is before the prior certification period expires and:

(a) The required interview is completed, and the Department receives the required verification, within 30 days after the client files the application for recertification; or

(b) The interview or verification required by this rule would have occurred timely but for a delay caused by the Department.

(8) The Department must deny the application for recertification in the event a client files a timely application for recertification but either fails to appear for a scheduled interview or fails to timely submit required verification.

(9) If the client fails to file an application for recertification during a certification period, SNAP benefits for the first month of the following certification period are prorated in accordance with OAR 461-180-0080.

(10) Once assigned, the certification period may not be shortened.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-115-0540

Certification Period; OSIP-EPD and OSIPM-EPD

(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.

Stat. Auth.: ORS 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070

Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-115-0610

Verification; General

(1) To be eligible for benefits, clients must provide verification when the Department requests verification. Verification provided for one program is used for all programs in which the client partic-

ipates. The three categories of information used in the verification process are:

(a) Documentary evidence, which is the primary source of verification for all eligibility factors except residency and household composition.

(b) Collateral contact, which is an oral or documentary confirmation of an eligibility factor by a person outside of the filing group.

(c) Observations made during a home visit by a Department representative.

(2) The Department will notify a client when verification of any factor affecting eligibility or benefit level is required.

(3) Verification of the occurrence of an act of domestic violence (see OAR 461-001-0000) is not required for any program.

Stat. Auth.: ORS 411.060, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.117, 411.650, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 8-2008, f. & cert. ef. 4-1-08

461-115-0651

Required Verification and When to Verify; SNAP

(1) The Department must give households at least 10 days to provide required verification.

(2) All of the following information must be verified when a client initially applies for SNAP benefits:

(a) The identity of the applicant and any authorized representative or alternate payee.

(b) Alien status.

(c) Social Security Number (SSN) or application for an SSN.

(d) Countable income.

(e) Medical expenses, if they are used as a deduction.

(f) An order to pay child support and the amount actually paid.

(g) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(3) All of the following information must be verified when a client reapplies for SNAP benefits:

(a) Countable income.

(b) Previously unreported medical expenses, and recurring medical expenses which have changed by more than \$25.

(c) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the client is paying for children that live in a different household group.

(d) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(4) For cases using the Change Reporting System (CRS), each of the following changes reported during the certification period must be verified:

(a) A change in source of income, or the amount of stable income has changed by more than \$50.

(b) The amount of variable income from any source.

(c) Changes in reported medical expenses by more than \$25, and previously unreported medical expenses.

(d) Any changes in the legal obligation to pay child support, the obligated amount, and the amount the client is paying for children that live in a different household group.

(e) Any information that is incomplete, inaccurate, inconsistent, or outdated, including unresolved issues that impact eligibility or the benefit amount.

(5) For cases using the Simplified Reporting System (SRS), each of the following changes reported during the certification period must be verified in accordance with OAR 461-170-0103:

(a) Alien status and SSN or application for an SSN when a new member joins the benefit group.

(b) Countable income.

(c) Medical expenses, if used as a deduction.

(d) An order to pay child support and the amount actually paid, if used as a deduction.

(6) A claimed expense or cost may be used to determine the SNAP benefit only when the client provides the required or requested verification.

(7) In addition to the verification required by sections (2) to (5) of this rule, the income for a client must be verified every six months for SRS cases certified for twelve months, except those in which every adult member of the filing group is elderly or an individual with a *disability* (see OAR 461-001-0015) and has no earned income (NED).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2010, f. & cert. ef. 4-1-10

461-115-0690

Verification For SNAP Expedited Service; Time Limits

This rule establishes verification requirements for expedited services in the SNAP program.

(1) An applicant meeting the SNAP program expedited services criteria under OAR 461-135-0575 and determined eligible for SNAP benefits must provide verification of his or her identity either through a collateral contact or documentary evidence before benefits may be issued. Benefits may not be delayed solely because other eligibility factors are not verified. The filing group (see OAR 461-110-0370) must provide the postponed verification within the timeframes established in section (3) of this rule.

(2) A filing group that was receiving SNAP benefits in another state during the same month the filing group applies for expedited services in Oregon must verify that the filing group will not use SNAP benefits from both the other state and Oregon in the same month. The filing group may provide the verification by signing a statement attesting to the following:

(a) The filing group did not receive SNAP benefits from the other state for the month in which the filing group is applying for SNAP benefits in Oregon; and

(b) If the filing group receives SNAP benefits from the other state for a month in which the filing group receives SNAP benefits in Oregon, the filing group must comply with the following requirements:

(A) The filing group may not use the other state's SNAP benefits; and

(B) The filing group must report receipt of the other state's SNAP benefits and turn them in to the Department within five days of receipt. Failure to comply with this requirement constitutes an intentional program violation.

(3) A filing group that does not provide all necessary postponed verification becomes ineligible as follows:

(a) A filing group applying on or before the 15th of the month becomes ineligible the last day of the month of application.

(b) A filing group applying after the 15th of the month becomes ineligible the last day of the month following the month of application.

(4) When SNAP benefits under expedited services close or change due to postponed verification, notice is provided in accordance with OAR 461-175-0300.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 22-2011(Temp), f. & cert. ef. 7-22-11 thru 1-18-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12

461-115-0700

Required Verification; GA, GAM, OSIP, OSIPM, QMB

In the GA, GAM, OSIP, OSIPM, and QMB programs:

(1) Except as provided in section (2) of this rule, all eligibility (see OAR 461-001-0000) factors must be verified at initial application, when there is a change to any factor, and whenever eligibility for benefits becomes questionable.

(2) If the total reported value of gross "liquid resources" of the financial group (see OAR 461-110-0530) is less than \$400, verification of the value of "liquid resources" is only required if questionable. For the purposes of this rule, "liquid resources" include

cash as well as other resources that can be converted to cash within 20 business days, except that the cash surrender value of a life insurance policy is not considered a liquid resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685
 Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839
 Hist.: AFS 19-1993, f. & cert. ef. 10-1-93; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0715

Required Verification; SFPSS

In the SFPSS program, all eligibility factors must be verified during the initial determination period, when there is a change to any factor, and whenever eligibility for benefits becomes questionable.

Stat. Auth.: ORS 411.060, 412.049, 2007 OL 861
 Stats. Implemented: ORS 411.060, 412.049, 2007 OL 861
 Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

DIVISION 120

GENERAL NONFINANCIAL ELIGIBILITY REQUIREMENTS

461-120-0010

Residency Requirements

(1) To be eligible for benefits, an individual must be a resident of Oregon.

(2) Except as provided otherwise in OAR 461-120-0030 and this rule, an individual is a resident of Oregon if the individual lives in Oregon.

(3) There is no minimum amount of time an individual must live in Oregon to be a resident. However, the individual must intend to remain in Oregon except in the following situations:

(a) EA may be issued to help an individual return to a former state of residence.

(b) In the OSIPM, QMB, and REFM programs, when an individual is presumed incapable of forming an intent to reside under OAR 461-120-0050.

(c) In the REF and TANF programs, an individual is considered a resident if the individual entered Oregon with a job commitment or looking for work, and is not receiving benefits from another state.

(d) The SNAP program does not require intent to remain to establish residency.

(e) In the TA-DVS program, to the extent permitted under OAR 461-135-1200.

(4) An individual is not a resident if the individual is in Oregon solely for a vacation.

(5) An individual continues to be a resident of Oregon during a temporary period of absence if the individual intends to return when the purpose of the absence is completed; and, in the TANF program, the individual remains in the household group under OAR 461-110-0210.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685
 Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.025, 414.033, 414.685, 414.826, 414.839
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-120-0030

State of Residence for an Individual in a Medical Facility

In the GAM, OSIPM, QMB, and REFM programs, the residency of an individual living in a state or private medical facility such as a hospital, mental hospital, nursing home, or convalescent center is determined as follows:

(1) An individual 21 years of age or older who is capable of indicating intent to reside is considered to be --

(a) A resident of the state where the individual is living with the intention to remain permanently or for an indefinite period, except when subsection (b) of this section indicates otherwise.

(b) When a state agency of another state places the individual (other than a child funded under Title IV-E), the individual is considered to be a resident of the state that makes the placement.

(2) An individual 21 years of age or older who became incapable of indicating intent to reside after attaining 21 years of age is considered to be a resident of the state where the facility is located unless the individual was placed in the facility by a state agency of another state. When a state agency of another state places an individual, the individual is considered to be a resident of the state that makes the placement.

(3) For an individual less than 21 years of age who is incapable of forming an intent to reside, or an individual of any age who became incapable of forming that intent before attaining 21 years of age (see OAR 461-120-0050), the state of residence is one of the following:

(a) The state of residence of the individual's parent or legal guardian at the time of application.

(b) The state of residence of the party who applies for benefits on the individual's behalf if there is no living parent or the location of the parent is unknown, and there is no legal guardian.

(c) Oregon, if the individual has been receiving medical assistance in Oregon continuously since November 1, 1981, or is from a state with which Oregon has an interstate agreement that waives the residency requirement.

(d) When a state agency of another state places the individual, the individual is considered to be a resident of the state that makes the placement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-120-0050

Incapable of Stating Intent to Reside; OSIPM, QMB, REFM, and SAC

In the OSIPM, QMB, and REFM programs, an individual is presumed to be incapable of forming an intent to reside if the individual meets the requirements of one or more of the following sections:

(1) The individual is assessed with an IQ of 49 or less, based on a test acceptable to the Department.

(2) The individual has a mental age of seven years or less, based on tests acceptable to the Department.

(3) The individual is judged legally incompetent by a court of competent jurisdiction.

(4) The individual is found incapable of indicating intent to reside based on documentation provided by a physician, psychologist or other professional licensed by the state of Oregon in the field of intellectual disabilities.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 414.231
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 414.231
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-120-0110

Citizenship and Alien Status Requirements

(1) Except as provided in section (5) of this rule, in all programs except the CAWEM, ERDC, REF, and REFM programs, to be a member of a benefit group (see OAR 461-110-0750) an individual must meet the requirements of at least one of the following subsections:

(a) Be a citizen of the United States;

(b) Meet the alien status requirements in OAR 461-120-0125;

(c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or

(d) Be a national from American Samoa or Swains Islands.

(2) In the CAWEM program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1070.

(3) In the ERDC program, the need group (see OAR 461-110-0630) and benefit group must include a child who meets the requirements of section (1) of this rule.

(4) In the REF and REFM programs, to be a member of the need group and the benefit group an individual must meet the alien status requirements of OAR 461-120-0125.

(5) In the TA-DVS and TANF programs, a victim of domestic violence (see OAR 461-001-0000) is not subject to section (1) of this rule when OAR 461-135-1200 applies.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006,

412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.706, 411.816,

412.006, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert.

ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef.

2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92;

AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-

1997, f. & cert. ef. 7-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 6-2006,

f. 3-31-06, cert. ef. 4-1-06; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru

9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; Administrative

correction 10-22-09; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0125

Alien Status

(1) For purposes of this chapter of rules, an individual is a “qualified non-citizen” if the individual is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a “Cuban and Haitian entrant” (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA.

(i) In all programs except the SNAP program--a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(j) In the SNAP program--a non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent’s family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

(2) In all programs except the REF and REFM programs, an individual meets the alien status requirements if the individual is one of the following:

(a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the ERDC, TA-DVS, and TANF programs, an individual meets the alien status requirements if the individual is one of the following:

(a) An individual who is a qualified non-citizen.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(d) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(4) In the OSIPM and QMB programs:

(a) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following situations:

(A) Effective October 1, 2009, is an individual under 19 years of age.

(B) Was a qualified non-citizen before August 22, 1996.

(C) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more

than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.

(D) Is an individual granted any of the following alien statuses:

- (i) Refugee — under section 207 of the INA.
- (ii) Asylum — under section 208 of the INA.
- (iii) Deportation being withheld under section 243(h) of the INA.

(iv) Cubans and Haitians who are either public interest or humanitarian parolees.

(v) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(vi) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(vii) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(viii) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(E) Meets the alien status requirements in section (2), (6), or (7) of this rule.

(F) In the OSIPM program, is receiving SSI benefits.

(G) In the QMB program, is receiving SSI and Medicare Part A benefits.

(b) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:

(A) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.

(B) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

(i) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);

(ii) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);

(iii) Cuban-Haitian entrants, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;

(iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;

(v) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

(vi) An alien currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or

(vii) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.

(C) An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).

(5) In the GA and GAM programs, an individual meets the alien status requirement if the individual is one of the following:

(a) An individual who is blind or has a disability was lawfully residing in the United States on August 22, 1996, and is now a qualified non-citizen.

(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(c) An individual who meets one of the alien status requirements in section (2) or (6) of this rule.

(d) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(6) In all programs except the ERDC, REF, REFM, and TANF programs, a qualified non-citizen meets the alien status requirement if the individual is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of an individual described in subsection (a) or (b) of this section.

(d) In the SNAP program, a qualified non-citizen who meets the requirement in section (10) of this rule.

(7) Except as provided in section (2), subsection (4)(a), and sections (5) and (6) of this rule, a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996:

(a) Is ineligible for the OSIPM and QMB programs for five years beginning on the date the non-citizen received his or her qualified non-citizen status.

(b) Meets the alien status requirement following the five-year period.

(8) In the REF and REFM programs, an individual meets the alien status requirements if the individual is admitted lawfully under any of the following provisions of law:

(a) An individual admitted as a refugee under section 207 of the INA (8 USC 1157).

(b) An individual granted asylum under section 208 of the INA (8 USC 1158).

(c) Cuban and Haitian entrants, in accordance with requirements in 45 CFR part 401.

(d) An individual paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)). For purposes of this section, “Lautenberg” parolees, humanitarian interest parolees, and other public interest parolees do not qualify.

(e) An Amerasian from Vietnam who is admitted to the U.S. as an immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461 as amended)).

(f) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(g) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(h) Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act.

(9) In the SNAP program, an individual meets the alien status requirement if the individual meets the requirements of one or more of the following subsections:

(a) An individual granted any of the following alien statuses--

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(b) A qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.

(f) A qualified non-citizen who has a disability, as defined in OAR 461-001-0015.

(10) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the SNAP program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means tested benefits include SNAP, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that the individual has fewer than 40 quarters of coverage, may be provisionally certified for SNAP program benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for SNAP program benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

Stat. Auth.: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97,

cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-120-0130

Declaration of Citizenship or Alien Status

An individual required to meet the citizenship and alien status requirements of OAR 461-120-0110 must report the individual's citizenship and alien status to the Department. An adult member of the filing group or an *authorized representative* (see OAR 461-115-0090 and 461-115-0140) must sign a statement under penalty of perjury attesting to this status for each member of the filing group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 30-1991, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0210

Requirement to Provide Social Security Number (SSN)

(1) In the CAWEM, ERDC, REF, and REFM programs, a member of a need group (see OAR 461-110-0630) or a benefit group (see OAR 461-110-0750) is not required to provide or apply for a social security number (SSN). In these programs, the Department may request that a member of the filing group or need group provide an SSN on a voluntary basis.

(2) In the EA and TA-DVS programs, an individual must provide his or her SSN if the individual can.

(3) Except as provided in section (5) of this rule, in the OSIPM and QMB programs:

(a) An individual is not required to apply for or provide an SSN.

(A) If the individual does not have an SSN; and

(B) May only be issued an SSN for a valid non-work reason in accordance with 20 CFR 422.104.

(b) When subsection (a) does not apply, to be included in the benefit group, an individual must:

(A) Provide a valid SSN for the individual; or

(B) Apply for a number if the individual does not have a valid one and provide the SSN when it is received.

(4) Except as provided in sections (5) to (7) of this rule, in the SNAP and TANF programs, to be included in the need group, an individual (other than an unborn) must:

(a) Provide a valid SSN for the individual; or

(b) Apply for a number if the individual does not have one and provide the SSN when it is received.

(5) In the GA, GAM, OSIPM, QMB, and SNAP programs, an individual is not required to apply for or provide an SSN if the individual is:

(a) A member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950; and

(b) Adheres to its tenets or teachings that prohibit applying for or using an SSN.

(6) The requirement to apply for or provide the SSN is delayed as follows:

(a) In the SNAP program:

(A) An applicant eligible for expedited services may receive his or her first full month's allotment without meeting the SSN requirement but must meet the requirement before receiving a second full month's allotment.

(B) Before applying for or providing an SSN, a newborn may be included in a benefit group (see OAR 461-110-0750) for six months following the date the child is born or until the group's next recertification, whichever is later.

(b) In the TANF program, without meeting the SSN requirements of section (4) of this rule, a newborn child born in Oregon may be added to the benefit group for six months following the child's date of birth or until the next redetermination of eligibility of the filing group (see OAR 461-110-0330), whichever is sooner.

(7) In the SNAP program:

(a) An individual who refuses or fails without good cause to provide or apply for an SSN when required by this rule is ineligible to participate. This period of ineligibility continues until the individual provides the SSN to the Department.

(b) An individual may participate in SNAP for one month in addition to the month of application, if the individual can show good cause why the application for an SSN has not been completed. To continue to participate, the individual must continue to show good cause each month until the application for an SSN is complete with Social Security Administration.

(c) An individual meets the good cause requirement in subsections (a) and (b) of this section if the individual provides evidence or collateral information that the individual applied for or made every effort to supply the Social Security Administration with the necessary information to complete the application process. Delays due to illness not associated with a disability (see OAR 461-001-0015), lack of transportation, or temporary absence do not qualify as good cause under this rule.

(8) This rule authorizes or requires the collection of an SSN for each of the following purposes.

(a) The determination of eligibility for benefits. The SSN is used to verify income and other assets, and match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.

(b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.

(c) The operation of the program applied for or providing benefits.

(d) Conducting quality assessment and improvement activities.

(e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 12-2013(Temp), f. & cert. ef. 5-29-13 thru 11-25-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-120-0310

Assignment of Support Rights; Not SNAP

In all programs except the SNAP program:

(1) To be eligible for any program funded in whole or in part with federal grants under Title IV-A (TANF) of the Social Security Act, the filing group (see OAR 461-110-0310) must assign to the state its right to receive, from any other person, child support that accrues during any time period that the group receives assistance, not to exceed the total amount of assistance paid.

(2) To be eligible for any program funded in whole or in part with federal grants under Title IV-E of the Social Security Act, the filing group must assign to the state its right to receive, from any other person, child support that has accrued or that accrues during any time period that the group receives assistance, not to exceed the total amount of assistance paid.

(3) To be eligible for the OSIPM program, a filing group (see OAR 461-110-0410) must assign to the state the right of any Medicaid-eligible child (see OAR 461-001-0000) in the filing group to receive any cash medical support that accrues while the group receives assistance, not to exceed the total amount of assistance paid.

(4) Cash medical support received by the Department is retained by the Department as is necessary to reimburse the Department for OSIPM program medical assistance payments made on behalf of an individual with respect to whom such assignment was executed. To allow adequate time for reporting and payment of incurred medical services, the Department initiates reconciliation 12 months after termination of OSIPM benefits and subsequently issues any resulting refund to the individual or the individual's legal guardian.

(5) When the Department provides benefits or services for the support of a child who is in a filing group in any program funded in whole or in part with a federal grant under Title IV-A (TANF) or IV-E of the Social Security Act, the right to child support for that child that any individual may have is deemed to be assigned to the state by operation of law.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 412.024, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 412.001, 412.024, 412.049, 413.085, 414.025, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 12-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 3-29-07; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-120-0315

Medical Assignment

In the GAM, OSIPM, QMB, and REFM programs:

(1) By signing the application for assistance, a client agrees to turn over the rights of each member of the benefit group (see OAR 461-110-0750) to reimbursement for medical care costs to the Department.

(a) If a client or the client's authorized representative (see OAR 461-115-0090) refuses to assign the rights to reimbursement for medical care costs to the Department, the filing group is ineligible until the client complies with this requirement. This includes a client eligible for long term care (see OAR 461-001-0000) insurance payments who fails to comply as described in subsection (b) of this section.

(b) When a client has long term care insurance, the client complies with the requirements of this rule by reducing the Department's share of the long term care service costs by taking the following actions for the entire period of time that the client is eligible for Department-covered long term care services:

(A) For a client in a nursing facility:

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the long term care facility as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the long term care facility, submitting the necessary paperwork to receive insurance payments and then promptly turning over the long term care insurance payments to the long term care facility upon receipt.

(B) For a client in community based care (see OAR 461-001-0000):

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the Department as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the Department, submitting the necessary paperwork to receive the insurance payments and then promptly turning over the long term care insurance payments to the Department upon receipt.

(2) The Department may refuse to pay medical expenses for anyone in the benefit group when another party or resource should pay first.

(3) The amount the Department may collect in reimbursement is limited to the amount of medical services paid by the Department on the client's behalf.

(4) The Department establishes an overpayment if it is discovered after-the-fact that during any period of time a client or another individual submitting a long term care insurance claim on the client's behalf received a long term care insurance payment that was not turned over to the long term care facility or Department as required by subsection (1)(b) of this rule.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 414.231

Stats. Implemented: ORS 411.060, 411.404, 411.706, 414.231

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; ; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-120-0330

Requirement to Pursue Assets

(1) In all programs, except the ERDC and SNAP programs, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which are covered in OAR 461-120-0340 and 461-120-0345, respectively) to which the individual has a legal right or claim, except as follows:

(a) A parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) who is exempt from participation in the JOBS program is not required to apply for unemployment insurance benefits.

(b) Except as specified by law, an individual applying for or receiving any program benefits from the Department is not required to apply for other programs it administers or for supplemental security income (SSI).

(c) An individual applying for the EA program is required to pursue, obtain, and use an asset only if the asset can be made available in time to meet the emergent need.

(d) An individual is not required to borrow money.

(e) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.

(2) In all programs except the ERDC, SNAP, and medical assistance programs:

(a) The effect of failing to comply with this rule is that everyone in the filing group is ineligible. In addition, when a REF, SFPSS, or TANF program payment ends due to the penalty described in this subsection, eligibility for and the level of SNAP benefits are determined as if the individual were receiving benefits without the effects of this rule.

(b) The penalty provided by subsection (2)(a) of this rule is effective until all members of the filing group comply with the requirements of section (1) of this rule.

(3) In the medical assistance programs:

(a) An individual is ineligible for benefits if he or she fails to comply with the requirements of this rule.

(b) The penalty provided by section (3)(a) of this rule is effective until the individual complies with the requirements of section (1) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 30-1996, f. & cert. ef. 9-23-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-120-0340

Client Required To Help Department Obtain Support From Noncustodial Parent; TANF

In the TANF program:

(1) To be eligible for program benefits, except as permitted in section (2) of this rule, a *caretaker relative* (see OAR 461-001-0000) must make a *good faith effort* to help the Department:

(a) Establish paternity of each needy child; and

(b) Locate and obtain support payments from the noncustodial parent of each needy child.

(2) A *caretaker relative* is excused from the requirements of section (1) of this rule:

(a) For *good cause* under OAR 461-120-0350;

(b) If the *caretaker relative* is a participant in the JOBS Plus, Post-TANF, or SFPSS programs; or

(c) If the *filing group* (see OAR 461-110-0330) is a two-parent family.

(3) A *good faith effort* includes taking such actions as:

(a) Supplying *sufficient information* for the Division of Child Support (DCS) to proceed with appropriate actions to establish paternity of a dependent child, to locate noncustodial parents, or to establish a support order with respect to the child. *Sufficient information* includes, but is not limited to, the time and place of each child's conception (if paternity is not established) and the following information, if known to the *caretaker relative*, regarding any non-custodial parent of a needy child:

(A) Full legal name and nicknames.

(B) Social Security Number.

(C) Current or last known address.

(D) Current or last known employer, including name and address.

(E) If a student, current or last known school.

(F) Criminal record, including where and when incarcerated.

(G) Date of birth, or age.

(H) Race.

(I) Any known group or organizational affiliations.

(J) Names and addresses of close friends or relatives.

(K) Any other information the Department or DCS requests to help locate or identify an absent parent of any children in the benefit group.

(b) Supplying documentation or an explanation of the client's efforts to obtain information requested by the Department or DCS (if unable to provide any necessary information listed in subsection (a) of this section).

(c) Keeping appointments with the Department and DCS related to establishing paternity.

(d) Returning telephone calls and responding to correspondence when requested to do so by the Department or DCS.

(4) If a client who has not been excused under section (2) of this rule has the opportunity to make a *good faith effort* to help the Department establish paternity of a needy child or locate or obtain support payments from the noncustodial parent of a needy child (and is unable to show he or she has *good cause* under OAR 461-120-0350), the Department applies penalties for failure to comply

with requirements of section (1) of this rule in the following manner until the client meets the requirements of this rule:

(a) For a *benefit group* (see OAR 461-110-0750) not currently receiving TANF, if the failure to comply occurs while an application for TANF is pending the *filing group* (see OAR 461-110-0330) is ineligible.

(b) For a *benefit group* receiving TANF benefits, if a failure to comply occurs, the net monthly TANF benefit, after reductions for the client's failure to comply with requirements of the JOBS program are made, is reduced by:

(A) 25 percent for the first month following the month in which failure to comply is determined.

(B) 50 percent for the second month following the month in which failure to comply is determined.

(C) 75 percent for the third month following the month in which failure to comply is determined.

(D) 100 percent (total ineligibility for the *benefit group*) for the fourth and subsequent months following the month in which failure to comply is determined.

(c) Once a penalized client complies with the requirements and benefits are no longer reduced under this rule, a subsequent penalty is imposed without regard to any prior penalty.

(d) If the TANF payment is affected by the penalty imposed under this rule, eligibility for and the level of SNAP benefits are determined as if the client were receiving cash benefits without reduction due to the penalty.

(5) The penalty provided by this rule ends when the client meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 412.024 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.024 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 24-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 36-2012, f. 12-28-12, cert. ef. 12-29-12; SSP 8-2013, f. & cert. ef. 4-1-13

461-120-0345

Clients Required to Obtain Health Care Coverage and Cash Medical Support; GAM, OSIPM

This rule explains the obligation of clients to obtain health care coverage and cash medical support for members of the benefit group (see OAR 461-110-0750) in the GAM and OSIPM programs.

(1) Unless excused from the requirements of this section for good cause defined in OAR 461-120-0350, each adult client must assist the Department and the Division of Child Support of the Department of Justice in establishing paternity for each of his or her children and obtaining an order directing the non-custodial parent (see OAR 461-001-0000) of a child (see OAR 461-001-0000) in the benefit group to provide:

(a) Cash medical support for that child; and

(b) Health care coverage for that child.

(2) Each adult client must make a good faith effort to obtain available coverage under Medicare.

(3) To be eligible for the GAM and OSIPM programs, once informed of the requirement, an individual who is able to must apply for, accept, and maintain cost-effective, employer-sponsored health insurance (see OAR 461-155-0360). In the GAM and OSIPM programs, the client is not required to incur a cost for the health insurance.

(4) An individual who fails to meet an applicable requirement in sections (1), (2), or (3) of this rule is removed from the need group (see OAR 461-110-0630).

(5) In the case of an individual failing to meet the requirements of section (1) of this rule, the Department applies the penalty after

providing the client with notice and opportunity to show the provisions of OAR 461-120-0350 apply.

(6) The penalty provided by this rule ends when the client meets the requirements of this rule.

Stat. Auth.: ORS 411.060, 411.070, 412.024, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 412.001, 412.024, 412.049, 414.025, 414.042

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 30-1996, f. & cert. ef. 9-23-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-120-0350

Clients Excused for Good Cause from Compliance with Requirements to Pursue Child Support, Health Care Coverage, and Medical Support

(1) A client is excused from the requirements of OAR 461-120-0340(1) and 461-120-0345(1)(a) if:

(a) The client's compliance would result in emotional or physical harm to the dependent child (see OAR 461-001-0000) or to the caretaker relative (see OAR 461-001-0000). The statement of the caretaker relative alone is prima facie evidence that harm would result;

(b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the dependent child. The statement of the caretaker relative alone is prima facie evidence on the issues of conception and detrimental effect to the dependent child;

(c) Legal proceedings are pending for adoption of the needy child; or

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.

(2) In the GAM and REFM programs, a pregnant client is excused from the requirements of OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-120-0510

Age Requirements for Clients to Receive Benefits

(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) must be:

(A) Under 18 years of age; or

(B) 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, REFM, or SNAP programs, a client may be any age.

(5) To be eligible for the GA and GAM programs, a client must be:

(a) Eighteen years of age or older and less than 65 years of age; or

(b) Sixty-five years of age or older and must be a non-citizen who meets the requirements of OAR 461-120-0125.

(6) 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.

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

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

(9) To be eligible for the REF program, a client must be:

(a) 18 years of age or older;

(b) A legally emancipated minor; or

(c) Part of a TANF filing group (see OAR 461-110-0310) that is ineligible for the TANF program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 18-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-120-0630

Requirement to Live with a Caretaker or Caretaker Relative

(1) Except as provided otherwise in OAR 461-135-1200, to be eligible for the TANF program, a *dependent child* (see OAR 461-001-0000) must live with a caretaker relative (see OAR 461-001-

0000). Documentary evidence is required to show that an individual is the father of a dependent child.

(2) To be eligible for the EA program, a child must either live with a caretaker relative or have lived with a caretaker relative within the last six months.

(3) To be eligible for the ERDC program, a child must live with a caretaker (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 30-1992(Temp), f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

DIVISION 125

BASIS OF NEED

461-125-0010

Deprivation as an Eligibility Requirement

(1) To be eligible for the TANF program, a dependent child (see OAR 461-001-0000) must be deprived.

(2) Deprivation is the loss of parental support or care because of the absence, death, incapacity, unemployment, or underemployment of a parent (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0030

Determining Deprivation of a Child

(1) In the TANF program, determination of deprivation for a child (see OAR 461-001-0000) who lives with one parent (see OAR 461-001-0000) or does not live with a parent is based on the continued absence or death of a parent.

(2) Determination of deprivation for a child who lives with two parents is based on:

(a) The unemployment or underemployment of both parents;

or

(b) The incapacity of a parent.

(3) If a child meets deprivation on more than one basis, the branch office (see OAR 461-001-0000) may choose which reason to use. However, the choice cannot adversely affect the child's eligibility.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14

461-125-0050

Determining Deprivation for Child/Unborn without Legal Paternity

In the TANF program, deprivation is based only on incapacity, underemployment, or unemployment if:

(1) The mother and alleged father of the dependent child (see OAR 461-001-0000) or unborn are living together; and

(2) Either the mother or the alleged father claim the alleged father is, in fact, the father, and no other man has been identified as the father.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.300, 411.404, 411.632, 412.006 & 412.024

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.300, 411.404, 411.632, 412.006, 412.024 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0060

Deprivation Based on Death

If either *parent* (see OAR 461-001-0000) of a child (see OAR 461-001-0000) is deceased and the other parent has not remarried,

or has remarried but the stepparent is not living in the home, the child meets TANF deprivation based on death.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0090

Deprivation Based on Continued Absence of a Parent

In the TANF program, there is deprivation based on continued absence if all the following are true:

(1) The child (see OAR 461-001-0000) lives with only one parent (see OAR 461-001-0000) or does not live with any parent.

(2) The nature of the parent's absence interrupts or ends their function as a provider of maintenance, physical care, or guidance for the dependent child (see OAR 461-001-0000).

(3) The known or indefinite duration of the absence precludes counting on the parent's performance of the functions of planning for the present support and care of the dependent child.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0110

Situations of Deprivation Based on Continued Absence

In the TANF program, if the child (see OAR 461-001-0000) lives with only one parent (see OAR 461-001-0000) or does not live with any parent, deprivation based on continued absence exists if any of the following is true:

(1) The absent parent is confined to an institution and the confinement is anticipated to last more than 30 days.

(2) The absent parent is living at home only to serve a court-imposed sentence by performing unpaid public work and unpaid community service during the workday.

(3) The dependent child (see OAR 461-001-0000) is adopted by a single parent and the parent is not living with a spouse (see OAR 461-001-0000).

(4) The identity of the absent parent is not known or more than one individual is identified as the child's father and legal paternity has not been established.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0120

Situations of No Deprivation Based on Continued Absence

In the TANF program, deprivation based on continued absence does not exist if any of the following is true:

(1) The absence is due solely to the parent's participation in the uniformed services of the United States.

(2) Both parents share care, control, and supervision of the child (see OAR 461-001-0000) within each calendar month. This means:

(a) Each parent (see OAR 461-001-0000) makes significant decisions about their child's life; and

(b) The child sleeps at least 30 percent of the time during the calendar month in the home of each parent.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0130

Evidence of Deprivation Based on Continued Absence; MAA, MAF, TANF

In the TANF program:

(1) There is deprivation based on continued absence (except as specified in OAR 461-125-0120) if the absent parent (see OAR 461-001-0000) is not living in the same home as the dependent child (see OAR 461-001-0000), per section (2) of this rule, and the visits of the absent parent with the dependent child in the child's home do not exceed four times per week or a total of 30 hours per week.

(2) The Department uses the following guidelines in deciding whether the absent parent is living in the same home as the dependent child:

(a) The absent parent is not living in the same home as the dependent child if either of the following is true:

(A) The absent parent and the dependent child have been living in separate homes for 30 days or more; or

(B) The absent parent and the dependent child have been living in separate homes for less than 30 days, but at least one of the following is true:

(i) The filing group was receiving TANF when the absent parent and dependent child began living in separate homes.

(ii) The client is a victim of domestic violence (see OAR 461-001-0000).

(iii) The parents have filed for divorce or legal separation.

(iv) The absent parent and dependent child have established separate verifiable residences.

(b) The absent parent is considered to be living in the same home as the dependent child if the absent parent sleeps at least 30 percent of the time during the calendar month in the child's home.

(c) If the absent parent is living on the same property as the dependent child, they are considered to be living in the same home as the dependent child, unless all the following are true:

(A) The absent parent is the owner of the property, or is a tenant on the property. To be a tenant, the absent parent must be billed for rent.

(B) The absent parent lives independently from the dependent child and caretaker relative (see OAR 461-001-0000).

(C) The absent parent:

(i) Has and uses sleeping, bathroom and kitchen facilities separate from the dependent child and caretaker relative; or

(ii) Shares bathroom or kitchen facilities with the dependent child and caretaker relative, but the facilities are in a commercial establishment that provides room or board or both at a fair market rate.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.049, 412-114

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 412.049, 412.114

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 11-1999, f. & cert. ef. 10-1-99; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0150

Determining Primary Wage Earner (PWE); TANF

(1) The primary wage earner (PWE) is the parent who earned the most money in the 24 months before requesting assistance.

(2) Once a parent is determined to be the PWE, their status cannot change while the family remains continuously eligible for cash assistance, unless:

(a) The other parent later provides evidence that they should have been the PWE at the time of application; or

(b) The parent who is the PWE is out of the household group for at least one full calendar month. If so, the branch office must redetermine the PWE.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.404, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-125-0170

Deprivation Based on Unemployment or Underemployment; TANF

(1) In the TANF program, deprivation based on unemployment or underemployment exists if all the following are true:

- (a) A child (see OAR 461-001-0000) lives with two parents.
- (b) Both parents are unemployed or underemployed.

(2) For purposes of this rule, a parent (see OAR 461-001-0000) is not considered unemployed or underemployed if the parent is participating in a labor dispute.

Stat. Auth.: ORS 411.060, 411.070, 411.400, 412.006, 412.016, 412.049
Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.016, 412.049, 412.064, 2011 Or. Laws 604, 2012 Or. Laws 107

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 18-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 32-2009(Temp), f. & cert. ef. 10-29-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14

461-125-0230

Deprivation Based on the Incapacity of a Parent

In the TANF program, deprivation based on incapacity exists if a child (see OAR 461-001-0000) lives with two parents and:

(1) At least one parent (see OAR 461-001-0000) is receiving SSI and/or SSB based on disability or blindness; or

(2) Medical documentation establishes that the parent has a physical or mental condition that:

(a) Is expected to last for at least 30 days from the date of request (see OAR 461-115-0030) for TANF; and

(b) Substantially reduces or eliminates the parent's ability to support or care for their dependent child (see OAR 461-001-0000), taking into consideration the following:

(A) The limited job market opportunities of incapacitated individuals; and

(B) The parent's education, training, work history, age and other related factors.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0250

Criteria for Determining the Incapacity of a Parent

In the TANF program, a condition is considered to substantially reduce or eliminate the parent's ability to support or care for their dependent child (see OAR 461-001-0000) if, as a result of the condition, one of the following criteria is met:

(1) The parent (see OAR 461-001-0000) is unable to provide adequate care for the dependent child without help from others. Adequate care includes feeding, cleaning and supervising the dependent child.

(2) The parent is unable to perform any type of employment.

(3) The parent is able to perform work only in a job that is rehabilitative or in a sheltered workshop.

(4) The parent is unable to work at least 30 hours a week at employment paying at least state or federal minimum wage, whichever is greater.

(5) The number of hours the parent is able to work is substantially reduced.

(6) The parent is unable to work at their customary employment, but is able to work at employment for which they are equipped by education, training, or experience, that pays substantially less than their customary employment.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 411.404, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; SSP 27-2013, f. & cert. ef. 10-1-13

461-125-0255

Change in Basis of Deprivation; TANF

In the TANF program, when an absent parent joins a household receiving TANF benefits, or another change occurs that could change the basis of deprivation, the filing group (see OAR 461-110-0330) remains eligible during a 45-day period following the timely report of the change, during which the filing group may establish TANF eligibility based on incapacity or unemployment.

Stat. Auth.: ORS 411.060, 411.070, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.049, 412.114, 412.161, 418.647
Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-125-0260

Impairment Criteria; SFPSS

(1) To be eligible for the SFPSS program, an individual must be receiving TANF benefits and the Department has determined that the individual:

(a) Meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; or

(b) Meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or

(c) Meets the definition of disability in 20 C.F.R. § 404.1505 or 416.905.

(2) If an individual is unable to do so, the Department will obtain medical evidence that documents a claim of physical or mental impairment.

Stat. Auth.: ORS 411.060, 411.070, 412.049, 412.014

Stats. Implemented: ORS 411.060, 411.070, 412.049, 412.114

Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-125-0310

Basis of Need; OSIPM

In the OSIPM program, an individual must be one of the following:

(1) Blind (see OAR 461-125-0330) at any age (AB).

(2) Age 65 or over (see OAR 461-125-0350) (OAA).

(3) An individual with a disability (see OAR 461-125-0370) (AD).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10

461-125-0330

Blindness as the Basis of Need

In the OSIP and OSIPM programs, a client is considered blind if any of the following is true:

(1) The client is receiving SSB or SSI benefits based on blindness. Eligibility continues as long as eligibility for SSB or SSI eligibility continues.

(2) The client was eligible for and received AB in Oregon in December 1973. These grandfathered clients continue to be eligible as long as they are continuously blind as defined by Oregon requirements that were in effect in 1973.

(3) The client meets one of the following OSIP blindness criteria:

(a) Vision of 20/200 or less in the better eye with a corrective lens.

(b) A limitation in vision field to an angle of 20 degrees or less.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; SSP 7-2005, f. & cert. ef. 7-1-05

461-125-0350

Old Age as the Basis of Need; OSIP and OSIPM

Only a person who has attained the age of 65 years may be eligible for the OSIP-OAA or OSIPM-OAA program.

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Stat. Auth.: ORS 411.060, 411.070, 411.404 & 411.706
Stats. Implemented: ORS 411.060, 411.070, 411.404 & 411.706
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02

461-125-0370

Disability as the Basis of Need

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), an individual meets the eligibility requirement to have a disability if the requirements of one of the following subsections are met:

(a) The individual is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability. Eligibility continues as long as the individual remains eligible for SSDI or SSI.

(b) The individual was eligible for and received Aid to the Disabled benefits in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously disabled as defined by Oregon requirements that were in effect in 1973.

(c) The Department has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(d) The Social Security Administration (SSA) has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(2) If the Department finds the individual eligible for OSIPM in the absence of a disability determination by SSA, the individual remains eligible, provided that the individual continues to meet the disability criteria for eligibility for OSIPM, until SSA denies the disability claim in a final administrative decision.

(3) For OSIP and OSIPM, a disability determination made by SSA that is unfavorable to an individual is binding on the Department unless the requirements of at least one of the following subsections are met (see 42 C.F.R. 435.541(c)(1) and (c)(4)):

(a) SSA made the determination for a reason other than disability.

(b) The individual alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(c) More than 12 months after the most recent SSA determination denying disability, the individual alleges that his or her condition has changed or deteriorated since that SSA determination, and the individual has not made application to SSA based on these allegations.

(d) The individual alleges less than 12 months after the most recent SSA determination denying disability that the condition which SSA evaluated has changed or deteriorated since that SSA determination; and one or both of the following apply:

(A) The individual has requested reconsideration or reopening of the most recent SSA determination denying disability and SSA has declined to consider the new allegations.

(B) It is clear that the individual no longer meets SSI eligibility requirements unrelated to disability status but may satisfy comparable Medicaid eligibility requirements.

(4) If a binding SSA disability determination is not in place, the determination of disability to qualify for OSIPM is made by the Presumptive Medicaid Disability Determination Team (PMDDT), composed of a medical or psychological consultant and another individual who is qualified to interpret and evaluate medical reports, other evidence relating to the individual's physical or mental impairments, and (as necessary) to determine the capacities of the individual to perform substantial gainful activity, as specified in 20 C.F.R. Part 416, Subpart J (see 42 C.F.R. 435.541(f)(2)).

(5) The Presumptive Medicaid Disability Determination Team (PMDDT) obtains and reviews medical reports and other non-medical evidence pertaining to the individual and the claimed disability. The medical report and non-medical evidence must include

diagnosis and other information in accordance with the requirements for evidence applicable to disability determinations under the SSI program specified in 20 CFR Part 416, Subpart I. The PMDDT then makes a decision about medical eligibility and whether and when a redetermination will be made (see 42 C.F.R. 435.541(f)(1) and (3)).

(6) In the OSIP-EPD and OSIPM-EPD programs, an individual is disabled (see OAR 461-001-0035) or has a disability (see OAR 461-001-0035) if the individual has a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for SSI or SSDI under 20 C.F.R. Part 404. The determination is made as follows:

(a) A determination by SSA that the individual is disabled or has a disability is accepted by the Department.

(b) If the individual was determined to have a disability by SSA and lost their SSDI eligibility due to their own income, the SSA determination remains effective for one year from the date that the individual loses eligibility for SSDI.

(c) If there is no currently effective SSA determination finding the individual has a disability, the case is referred to the Department's central office for a disability determination (see OAR 461-001-0035) using the standards of 20 C.F.R. Parts 404 and 416 and considering all relevant medical and vocational information.

(d) For OSIPM-EPD, an individual is engaging in substantial gainful activity (SGA, see OAR 461-001-0035) if the earnings of the individual are at or above the EPD Income Standard.

(e) For OSIPM-EPD, any work activity engaged in during the OSIPM-EPD application process or certification period is not evaluated as past relevant work (PRW, see OAR 461-001-0035).

(7) An individual who is served by a branch office (see OAR 461-001-0000) and who has been determined by the Presumptive Medicaid Disability Determination Team (PMDDT) to have a disability (see section (1) of this rule) may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 461-120-0330.

(8) An individual may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 410-200-0220 if the individual:

(a) Is determined to have a disability under subsection (1)(c) of this rule;

(b) Receives benefits from one of the OCCS Medical Programs (see OAR 461-001-0000);

(c) Receives SNAP benefits; and

(d) Is served by the Aging and People with Disabilities branch office (see OAR 461-001-0000) in Estacada, Oregon.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.121, 411.404, 411.706, 411.816, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.050, 411.060, 411.070, 411.121, 411.404, 411.704, 411.706, 411.816, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 9-2003(Temp), f. & cert. ef. 4-11-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 20-2014(Temp), f. & cert. ef. 8-1-14 thru 1-28-15; SSP 22-2014(Temp), f. 8-29-14, cert. ef. 9-1-14 thru 1-28-15; SSP 27-2014(Temp), f. & cert. ef. 10-1-14 thru 1-28-15; SSP 31-2014(Temp), f. & cert. ef. 12-8-14 thru 1-28-15; SSP 5-2015, f. & cert. ef. 1-29-15; SSP 26-2015(Temp), f. 9-29-15, cert. ef. 10-5-15 thru 4-1-16

461-125-0510

Impairment Criteria; GA, GAM

(1) To be eligible for GA and GAM, an individual must meet one of the following criteria:

(a) Have a physical or mental impairment that meets or equals the listing of impairments found in 20 CFR 404, Subpart P, Appendix 1, in effect November 1, 2003, and can be expected to:

(A) Last for a continuous period of not less than 12 months from the date of request; or

(B) Result in death within 12 months from the date of request.

(b) Be 55 years of age or older and meet the following requirements:

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Prevent the individual from returning to any past relevant work for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(c) Be 55 years of age or older and have all of the following:

(A) A severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Less than a 12th grade education, as evidenced by the lack of a high school diploma or GED.

(C) A history of no past relevant work as defined in section (2) of this rule in the last 15 years.

(d) Be age 50 or older but not yet age 55: and

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Be illiterate or unable to communicate in English.

(C) Be limited to light residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(D) Have a past relevant work history of "unskilled" or "none."

(e) Be age 50 or older but not yet age 55: and

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Have less than a High School education.

(C) Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(D) Have a past relevant work history of "unskilled" or "none."

(f) Be age 45 or older but not yet age 50: and

(A) Have a severe physical or mental impairment that does not meet the listing of impairments referred to in subsection (a) of this section but will:

(i) Last for a period of not less than 12 months from the date of request; or

(ii) Result in death within 12 months from the date of request.

(B) Be illiterate or unable to communicate in English.

(C) Be limited to sedentary residual functioning capacity as defined in 20 CFR 404, subpart P, appendix 2, in effect November 1, 2003.

(D) Have a past relevant work history of unskilled or none.

(2) As used in this rule:

(a) "Basic work activity" means any kind of work activity that averages at least eight hours a day for which income is received, regardless of the adequacy to meet the client's needs. Work performed against medical advice or at an activity center or sheltered workshop is not basic work activity.

(b) "Equaling" means the medical findings are at least equal in severity and duration to the listed findings. If the client's impairment is not listed, the Department considers the listed impairment most like the client's impairment to decide whether the client's impairment is medically equal to the listed impairment. If the client has more than one impairment, and none of them meets or equals a listed impairment, the Department reviews the symptoms, signs, and laboratory findings about the client's impairments to determine whether the combination of those impairments is medically equal to a listed impairment.

(c) "Light work" means work that requires lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds and requires occasional stooping. It also requires standing or walking for a total of approximately six hours of an eight-hour workday.

(d) "Past relevant work" means work that the individual has performed in the last 15 years and that constitutes substantial gainful activity as defined in 20 CFR 404.1574 and 404.1575, in effect November 1, 2003. Also, the past relevant work must have lasted long enough for the individual to learn the techniques, acquire the necessary information, and develop the facilities needed for average performance of the job situation.

(e) "Sedentary work" means work that requires lifting no more than 10 pounds at a time and occasionally lifting or carrying articles such as docket files, ledgers, and small tools. Although sitting is involved, a certain amount of walking and standing is often necessary in carrying out job duties. Periods of walking and standing should total no more than two hours of an eight-hour workday and sitting should total approximately six hours of an eight-hour workday. Most unskilled sedentary jobs require good use of the hands and fingers for repetitive hand finger actions.

(f) "Severe mental impairment" means a mental impairment that significantly limits the individual's ability to do basic work activity.

(g) "Severe physical impairment" means a physical impairment that significantly limits the individual's physical ability to do basic work activity.

(h) "Unskilled work" is work that requires little or no judgment to do simple duties that can be learned on the job within 30 days.

(3) An applicant is not eligible for GA or GAM if drug addiction or alcoholism is material to his or her disability.

(4) If the client is unable to do so, the Department will obtain medical evidence that documents a claim of physical or mental impairment.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.070, 411.710, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.710, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 21-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 24-1996(Temp), f. & cert. ef. 6-11-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 35-2000(Temp), f. 12-29-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 4-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 15-2004(Temp), f. & cert. ef. 6-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-125-0810

Using Administrative Medical Examinations

(1) When the Department is responsible for making a decision of GA or SFPSS disability determination, OSIP or OSIPM disability or OSIP or OSIPM blindness, or TANF incapacity, the client may select a qualified medical provider to complete the medical evaluation described in OAR 461-125-0830.

(2) A decision to deny or end benefits must be reconsidered when additional medical documentation relevant to the decision is received by the Department within 30 days of the original effective date of denial or termination.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.710, 412.014

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.710, 412.014, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-125-0830

Documentation; Medical, Disability, and Other Determinations

(1) Medical documentation must be written and must contain all the following:

(a) A diagnosis in medical terminology, including an explanation of whether the impairment limits the individual's ability to perform normal functions and, if so, how.

(b) A prognosis, including an expected recovery time frame.

(c) Clinical findings from physical examination, psychiatric evaluation, X rays, or a laboratory procedure, including specific data supporting diagnosis of a condition that causes disability, either on a medical or psychiatric basis.

(2) Except as provided otherwise in section (3) of this rule:

(a) To determine eligibility, the Department will accept evaluations from the following medical sources: medical evaluations only from licensed physicians, including psychiatrists, osteopaths, and ophthalmologists; mental evaluations only from psychiatrists and licensed or certified psychologists; and measurement of visual acuity and visual fields only from ophthalmologists and licensed optometrists.

(b) The Department will accept supplemental medical and vocational information to augment evaluations from acceptable medical sources, from a licensed social worker, licensed physical or occupational therapist, or licensed nurse practitioner.

(3) Except for eligibility determinations in the OSIP, OSIPM, QMB, and SFPSS programs, the Department will also accept medical evaluations from licensed nurse practitioners and physician assistants; and mental evaluations from psychiatric mental health nurse practitioners.

(4) The client must provide or cooperate in obtaining sufficient medical documentation for the Department to determine eligibility.

(5) In the ERDC program, in addition to the documentation outlined in this rule, the program will accept confirmation from the Office of Child Welfare Programs that supervised contact is required between the child (see OAR 461-001-0000) and a parent (see OAR 461-001-0000) or spouse (see OAR 461-001-0000) who is living in the home with the child.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.710, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.710, 412.006, 412.009, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

DIVISION 130

EMPLOYMENT PROGRAM REQUIREMENTS

461-130-0305

General Provisions; Employment Programs

(1) This division of rules states:

(a) The requirements for a client participating in the employment programs of the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs. The employment programs are the JOBS, OFSET, and REF (administered under division 193 of these rules) employment programs.

(b) The effect of a labor strike on a client's eligibility for program benefits.

(2) The following definitions apply to OAR 461-130-0305 through 461-130-0335:

(a) "Exempt" means a client who the Department determines is not mandatory for an employment program in accordance with OAR 461-130-0310.

(b) "Mandatory" means a client in the need group (see OAR 461-110-0630) who the Department determines must participate in an employment program in accordance with OAR 461-130-0310.

(c) "Volunteer" means a client who is not a mandatory client and chooses to participate in an employment program.

(3) A client must provide the information necessary for the Department to determine each of the following:

(a) The client's participation classification (see OAR 461-130-0310);

(b) The client's level of participation; and

(c) If applicable, whether a client had good cause (see OAR 461-130-0327) for any failure to meet a requirement of an employment program.

(4) In the SNAP program, a mandatory client (see OAR 461-130-0310(3)(b)) is registered for the employment program when a member of the filing group (see OAR 461-110-0370) or an authorized representative (see OAR 461-115-0090 and 461-115-0140) signs the SNAP program application.

Stat. Auth.: ORS 411.060, 411.816, 412.006, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.006, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-130-0310

Participation Classifications: Exempt, Mandatory, and Volunteer

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:

(a) The Department assigns an individual to one or more employment program participation classifications — exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).

(b) In the Post-TANF program, an individual is classified as a volunteer.

(2) In the Pre-TANF, REF, and TANF programs:

(a) An individual is exempt from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is:

(A) Pregnant and in the month before the month in which the due date of the pregnancy falls.

(B) A parent (see OAR 461-001-0000) during the first six months after the birth of the parent's dependent child (see 461-001-0000) except that the Department may require the parent to participate in parenting classes or a family stability activity (see 461-001-0000). An exemption allowed under this paragraph may apply only to one mandatory participant in each filing group (see 461-110-0310, 461-110-0330, and 461-110-0430).

(C) Under 20 years of age during the first 16 weeks after giving birth except that the individual may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activity.

(D) A parent providing care for a family member who is an individual with a disability (see OAR 461-001-0000) and is in the household group (see 461-110-0210) with the parent. Medical documentation to support the need for the care is required.

(E) An REF client 65 years of age or older.

(F) A TANF client 60 years of age or older.

(G) A noncitizen who is not authorized to work in the United States.

(H) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

(I) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(J) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.

(K) A pregnant individual who participates more than 10 hours per week during the two months before the month in which the pregnancy due date falls.

(L) A VISTA volunteer.

(b) A caretaker relative of a dependent child or unborn who receives TANF program benefits is mandatory if the caretaker relative is in the same filing group with the dependent child or unborn (even if the caretaker relative is not in the TANF program benefit group under OAR 461-110-0750), unless the caretaker relative is otherwise exempt from participation under subsection (a) of this section.

(3) In the SNAP program:

(a) An individual is exempt from employment program participation and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is:

(A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. An individual who is self-employed with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes migrant and seasonal farm workers (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.

(B) An individual with a physical or mental condition that prevents performance of any work.

(C) Responsible for the care of a child (see OAR 461-001-0000) in the household under 6 years of age or an individual in the household with a disability (see 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(D) Providing care for at least 30 hours a week for an individual in another household with a disability that substantially reduces or eliminates the individual's ability to care for himself or herself.

(E) Enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. An individual remains exempt during normal periods of class attendance, vacation, and recess but no longer qualifies for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion, or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).

(F) Receiving REF or TANF program benefits.

(G) In receipt of unemployment insurance benefits, has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim, or is participating in at least one of the following Employment Department training programs:

(i) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.

(ii) The Training Unemployment Insurance (TUI) program.

(iii) The Self-Employment Insurance (SEA) program.

(iv) The Apprenticeship Program (APT).

(H) Participating in a drug or alcohol treatment and rehabilitation program.

(I) Pregnant.

(J) Lacking adequate dependent care.

(K) Without adequate transportation available.

(L) Experiencing a barrier to employment, such as being homeless or having a short-term physical or mental limitation or a serious family problem.

(b) A mandatory client is an individual in the need group (see OAR 461-110-0630); who is 16 or 17 years of age and a primary person (see 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not exempt under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef.

10-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-130-0315

Requirements for Mandatory Employment Program Clients; Pre-TANF, REF, SNAP, TANF

The following provisions apply to a *mandatory* (see OAR 461-130-0305) client:

(1) A *mandatory* client selected by the Department to participate in an employment program of the Pre-TANF, REF, SNAP, or TANF program must do all of the following:

(a) Accept a bona fide offer of employment, whether temporary, permanent, full time, part time, or seasonal.

(b) Maintain employment.

(A) In the Pre-TANF, REF, and TANF programs, in accordance with OAR 461-135-0070, a client fails to maintain employment when the client:

(i) Voluntarily quits work without good cause (see OAR 461-135-0327);

(ii) Is discharged for misconduct (see OAR 461-135-0070), felony or theft; or

(iii) Voluntarily reduces earnings or does not accept an increase in hours that would result in an increase of earnings without good cause.

(B) In the SNAP program:

(i) A client meeting the requirements of subparagraph (iii) of this paragraph fails to maintain employment when the criteria in at least one of the following sub-subparagraphs is met:

(I) Voluntarily leaving a job 30 days or less prior to the date of application for SNAP benefits or at any time thereafter;

(II) Being dismissed for striking while a federal, state, or county employee; or

(III) Reducing hours of work to less than 30 each week.

(ii) The following changes in employment status do not constitute a client's failure to maintain employment:

(I) An employer reduces a client's hours of work;

(II) An employer fires a client from a job;

(III) A client terminates a self employment enterprise; and

(IV) A client resigns from a job at the demand of the employer.

(iii) Subparagraph (i) of this paragraph applies only if the client meets at least one of the following requirements. The client:

(I) Is required to register for work;

(II) Is exempt from participating in the employment program due to employment under OAR 461 130 0310(3)(a)(A);

(III) Had a job that averaged not less than 30 hours each week or had provided average weekly earnings not less than the federal minimum wage multiplied by 30 hours, and the client quit the job; or

(IV) Quits working under a JOBS Plus agreement more than twice (see OAR 461 190 0426).

(c) Schedule and keep required employment-related appointments and interviews.

(d) Notify the Department's case manager or the JOBS contractor of the reason for not keeping employment-related appointments and interviews, not attending scheduled classes and activities, or not completing case management activities. Notification must be made within three working days from the date of a missed appointment, interview, class, or activity.

(e) Provide the Department, in the manner the Department requires, with verifiable documentation of JOBS participation hours, including paid work, job search, and educational participation hours.

(f) In the SNAP program, complete all work activities and components specified on the case plan (see OAR 461-001-0020).

(g) In the REF and TANF programs, complete all activities (see OAR 461-001-0025) specified on the case plan (see OAR 461-001-0025).

(2) In the Pre-TANF, REF, and TANF programs a mandatory client who fails to meet a participation requirement without good cause (see OAR 461-130-0327) is subject to disqualification in accordance with OAR 461-130-0330 only after the re-engagement process under OAR 461-190-0231 has been completed.

Stat. Auth.: ORS 411.060, 418.045, 412.049

Stats. Implemented: ORS 411.060, 418.045, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-130-0327

Good Cause; Employment Programs

In a Department employment program administered under these rules (OAR 461-130-0305 to 461-130-0335):

(1) The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(2) If in making a determination under this rule a client's physical or mental impairment is in question, the Department may require the client to provide documentation from a qualified and appropriate medical professional.

(3) A client is excused for good cause from a failure to comply with a requirement of an employment program, including an activity in a case plan (both terms defined in OAR 461-001-0025) in the following circumstances:

(a) Participation in a required activity in a case plan would have an adverse effect on or risk to the client's physical or mental health or would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(b) Except in the SNAP program, participation is likely to cause undue hardship for the dependent child (see OAR 461-001-0000) or the client.

(c) Appropriate child care, or day care for an individual in the household who has a disability (see OAR 461-001-0000 and 461-001-0015 as applicable) that substantially reduces or eliminates the individual's ability to care for himself or herself, cannot be obtained. "Appropriate child care" means that:

(A) Both the provider and the place where care is provided meet health, safety, and provider requirements as required in OAR 461-165-0180;

(B) The care accommodates the parent's work schedule; and

(C) The care meets the specific needs of the dependent child, such as age and special-needs requirements.

(d) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.

(e) The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.

(f) The client belongs to a union and the employment violates the conditions of the client's membership in the union.

(g) The wage for the client's current or potential job is:

(A) Less than applicable minimum wage; or

(B) If minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.

(h) The client's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.

(i) The client's participation in a required activity in a case plan would prevent or interfere with the client's participation in an activity of the Grande Ronde Tribe's NEW program.

(j) The client's failure to participate is due to a circumstance beyond his or her reasonable control.

(k) When the failure to comply is caused by an aspect of the client's disability, including the Department's failure to provide a reasonable accommodation.

(l) The client quits a job to accept another job with a monthly income at least equal to the monthly income of the first job.

(m) The Department determines there are no appropriate activities or necessary support services (see OAR 461-001-0025) to support an activity (see OAR 461-001-0025) in order for the client to participate.

(4) In the SNAP program, a client is excused from not accepting employment or for leaving a job under the following circumstances:

(a) The hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.

(b) The client accepts employment or enrolls at least half-time in any recognized school, training program, or institution of higher education that requires the client to quit a job.

(c) A client accepts employment or enrolls in school in another county, requiring the benefit group to move and the client to quit a job.

(d) A client less than 60 years of age resigns, and the employer recognizes the resignation as retirement.

(e) The client leaves a job to follow a type of employment that moves from one area to another, such as migrant labor or construction.

(f) The client accepts a job that, for reasons beyond the control of the client, does not materialize or results in fewer work hours or a lower wage than the client's previous job.

(g) Work demands or conditions, such as not being paid for work or not being paid on schedule, make employment unreasonable.

(h) The wage for the client's current or potential job is less than applicable minimum wage or, if minimum wage laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.

(i) The work schedule for the job in question does not conform to hours customary to the occupation or the hours worked each week are more than those customary to the occupation.

(j) The client is not obligated to accept a job during the first 30 days of registration for employment if the job is not in the client's field of experience.

(k) The client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The client must make a good-faith effort to secure the needed transportation.

(l) Lack of adequate child care for a child who is six years of age or older and less than 12 years of age.

Stat. Auth.: ORS 411.060, 411.816, 412.006, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.117, 411.816, 412.006, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11

461-130-0328

Effect of Strikes

(1) For the purposes of this rule, "striker" means anyone participating in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) or any concerted slowdown or other concerted interruption of operations by employees. An individual is not a "striker" if the individual is:

(a) An employee affected by a lockout;

(b) An individual who goes on strike but who is exempt (see OAR 461-130-0305) from participating in an employment program under this division of rules the day prior to the strike, unless exempt solely on the ground that the individual is employed; or

(c) An individual who is not part of a bargaining unit on strike and does not want to cross a picket line due to fear of personal injury or death.

(2) In the EA and TANF programs, a filing group (see OAR 461-110-0310) is ineligible for program benefits during any month in which a parent (see 461-001-0000) in the filing group is a striker (see section (1) of this rule). If any other member of the filing group is a striker, only that individual is ineligible.

(3) In the REF program, a filing group (see OAR 461-110-0430) is ineligible for program benefits during any month in which a member of the filing group is a striker.

(4) In the SNAP program:

(a) A household containing a striker is not eligible to participate in the program unless the household was eligible for benefits the day prior to the date the member became a striker.

(b) An eligible household is not entitled to an increased allotment as the result of a decrease in the income of a need group (see OAR 461-110-0630) member on strike.

(c) The eligibility (see OAR 461-001-0000) of a filing group (see 461-110-0370) containing a striker is determined by adding to the income of the filing group members who are not strikers the greater of the current income of the striker or the income of the striker immediately before the strike. Deductions used to determine benefits and eligibility for a household subject to the net income eligibility standard are calculated for the month of application as for any other household.

(d) A striker is subject to the registration requirements of this division of rules unless exempt from participating in an employment program on the day of application.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 409.050, 411.060, 411.404, 411.816, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-130-0330

Disqualifications; Pre-TANF, REF, SNAP, TANF

(1) In the Pre-TANF, REF, SNAP, and TANF programs, the Department may not disqualify from program benefits a client who is a volunteer (see OAR 461-130-0305) participant in an employment program.

(2) In the Pre-TANF, REF, and TANF programs, a mandatory (see OAR 461-130-0305) client who fails to comply with an employment program participation requirement and does not have good cause (see OAR 461-130-0327) for the failure to comply is subject to disqualification under this rule only after the requirements of all of the following subsections are met:

(a) The client has had the opportunity to participate in the re-engagement process under OAR 461-190-0231;

(b) The Department has determined the client is willfully non-compliant and does not have good cause for failing to comply with a requirement of the program;

(c) The Department has offered (and the client has refused) or conducted screenings (and assessed if appropriate) for physical or mental health needs, substance abuse, domestic violence, and learning needs;

(d) The Department has determined the client has no barriers (see OAR 461-001-0025) or refuses to take appropriate steps to address identified barriers;

(e) The Department has determined the client has not met federally required participation rates (see OAR 461-001-0025); and

(f) The Department has assessed for any risk of harm posed to the children by a reduction in cash assistance.

(3) In the REF and TANF programs, the effects of a JOBS disqualification are progressive. There are two levels of disqualification. Once a disqualification is imposed, it affects benefits according to the following schedule until the disqualification ends in accordance with OAR 461-130-0335:

(a) At the first level, the penalty is removal of the disqualified client from the need group (see OAR 461-110-0630) for up to three months or until the client has completed the two-consecutive week cooperation period.

(b) At the second level, the need group receives no cash benefit in the program for one month.

(c) At the first or second level of disqualification, the penalty may cause the need group to be over income for REF or TANF program benefits (see OAR 461-160-0100).

(d) At the end of the second level, program benefits are closed and the filing group may not receive program benefits for the fol-

lowing two consecutive months. This may be prevented if the disqualified client:

(A) Contacts a representative of the Department in order to re-engage in the JOBS program prior to the end of the second level; and

(B) Begins the two consecutive weeks of cooperation as outlined in section (4) of OAR 461-130-0335 prior to the end of the second level; or

(C) Is no longer a member of the household group (see OAR 461-110-0210 and 461-130-0335(2)); or

(D) Is unable to participate because there are no appropriate activities (see OAR 461-001-0025) or support services (see OAR 461-001-0025) necessary to support the activity (see OAR 461-001-0025).

(4) In the SNAP program:

(a) A mandatory client who fails to comply with the requirements of an employment program is subject to disqualification. A disqualified client is removed from the need group until he or she meets the employment program requirements and serves the applicable progressive disqualification under the following subsections:

(A) One calendar month for the first failure to comply.

(B) Three calendar months for the second failure to comply.

(C) Six calendar months for the third and subsequent failures to comply.

(b) A client who is exempt (see OAR 461-130-0305) from participation in the SNAP employment program because he or she is a mandatory participant in the JOBS program, receiving unemployment compensation benefits, or has applied for unemployment compensation benefits and is waiting on an initial decision must comply with the requirements of the applicable program the client is disqualified from receiving SNAP benefits, unless he or she can show good cause under OAR 461-130-0327.

Stat. Auth.: ORS 411.060, 411.816, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13

461-130-0335

Removing Disqualifications and Effect on Benefits

(1) An applicant who would be subject to an employment program disqualification under OAR 461-130-0330 but withdraws the application before benefits are approved is not subject to disqualification.

(2) In the REF, SNAP, and TANF programs, a filing group (see 461-110-0330, 461-110-0370, and 461-110-0430) is not subject to the impact of a disqualification for a disqualified member who has left the household group (see 461-110-0210). If the member joins another filing group, that group is subject to the member's most recent disqualification.

(3) In the REF and TANF programs, an individual disqualified for failure to meet the requirements of an employment program under division 190 of these rules:

(a) At the first level of disqualification must cooperate for two consecutive weeks with each activity (see OAR 461-001-0025) specified in the individual's current or revised case plan (see 461-001-0025) before the Department may remove the disqualification. Cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.

(b) When the second level of disqualification ends, TANF program benefits are closed for two consecutive months, unless the individual begins two consecutive weeks of cooperation with each activity specified in the individual's current or revised case plan before the end of the second level. If the individual completes the two consecutive weeks of cooperation, cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.

(c) Cash benefits are restored effective the date it is determined, by the Department, there are no appropriate activities or support services (see OAR 461-001-0025) necessary to support the activity available in order for the individual to demonstrate participation.

(4) In the REF and TANF programs, a disqualification ends when:

(a) The Department changes the participation classification of the disqualified individual to exempt (see 461-130-0305);

(b) The individual complies with the requirements of the employment program (see section (3) of this rule); or

(c) REF or TANF program benefits are closed for a reason other than described in OAR 461-130-0330(3)(d).

(5) In the SNAP program, the disqualification ends the first day of the month following the month in which information is provided to the Department justifying the change in the individual's participation classification, even if the date falls within the disqualification period provided in OAR 461-130-0330(4).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.009, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

DIVISION 135

SPECIFIC PROGRAM REQUIREMENTS

461-135-0010

Assumed Eligibility for Medical Programs

(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 any Medicaid program and becomes ineligible while pregnant is assumed eligible for Medicaid 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.

(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.

(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 461-001-0000) services if the individual would otherwise be ineligible for OSIPM due to a disqualifying transfer of assets (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 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 pursuit of assets requirements (see OAR 461-120-0330), the health care coverage requirements (see

461-120-0345), or the residency requirements (see 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 unless the child:

(a) No longer meets the definition of a child given in this section;

(b) Moves out of state; or

(c) Voluntarily ends 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).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 412.049 & 414.025

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 12-1999(Temp), f. & cert. ef. 10-1-99 thru 1-31-00; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-11-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-135-0070

Specific Requirements; TANF

(1) To be eligible for TANF program benefits, a client must be one of the following:

(a) A dependent child (see OAR 461-001-0000). However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made for the dependent child.

(b) A caretaker relative (see OAR 461-001-0000) of an eligible dependent child. However, a caretaker relative to whom foster care payments are made for more than 30 days is not eligible while the payments are being made to the caretaker relative.

(c) A caretaker relative of a dependent child, when the dependent child is ineligible for TANF program benefits because of one of the following reasons:

(A) The child is receiving SSI.

(B) The child is in foster care, but is expected to return home within 30 days.

(d) An essential person. An essential person is a member of the household group (see OAR 461-110-0210) who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the benefit group (see OAR 461-110-0750) who has a mental or physical disability; and

(C) Is less expensive to include in the benefit group than the cost of purchasing this service from another source.

(e) A parent (see OAR 461-001-0000) of an unborn, as follows:

(A) For the TANF program, any parent whose only child is an unborn child once the mother's pregnancy has reached the calendar month before the month in which the due date falls.

(B) For the TANF program, the parent of an unborn child, if there is another dependent child in the filing group (see OAR 461-110-0330).

(2) As used in this rule and OAR 461-125-0170:

(a) Except as provided otherwise in this section, “good cause” means a reasonable person of normal sensitivity, exercising ordinary common sense under similar circumstances, would have:

(A) Left work; or

(B) Participated in behavior leading to the individual’s discharge or to the individual quitting work in anticipation of discharge.

(b) For an individual with a physical or mental impairment (as defined at 29 CFR 1630.2(h)), except as provided otherwise in subsection (c) of this section, “good cause” for leaving work means that a reasonable person with the characteristics and qualities of such individual under similar circumstances would have:

(A) Left work;

(B) Participated in behavior leading to the individual’s discharge; or

(C) Quit work in anticipation of a discharge.

(c) There is no “good cause” if the reason for separation from employment is a labor dispute.

(3) Except as provided under section (4) of this rule, a need group (see OAR 461-110-0630) is not eligible for TANF program benefits for 120 days from the date a caretaker relative was separated from his or her last employment in which the caretaker relative in the need group was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment.

(4) A need group (see OAR 461-110-0630) may not be denied TANF program benefits based on section (3) of this rule, or based on not meeting 461-125-0170(1), if the caretaker relative is one of the following:

(a) A Parents as Scholars (PAS) participant who temporarily becomes ineligible for TANF program benefits for four months or less due to income from a paid work experience (see OAR 461-190-0199).

(b) A teen parent (see OAR 461-001-0000) returning to high school or equivalent.

(c) An individual fleeing from or at risk of domestic violence (see OAR 461-001-0000).

(d) An individual in the ninth month of pregnancy or experiencing a medical complication due to the pregnancy which is documented by a qualified and appropriate professional.

(e) An individual unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is expected to last for 30 days or more from the date of request (see OAR 461-115-0030) for TANF program benefits.

(f) An individual who was separated from employment for a reason the Department determines is good cause.

(g) An individual who was separated from employment as a result of a layoff.

(5) A family is ineligible for TANF program benefits if the family meets the requirements of all of the following subsections:

(a) The family lives in Klamath County.

(b) The family meets any of the following conditions:

(A) The family has a single custodial parent who is a member of the Klamath Tribes, or the single custodial parent is not a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members;

(B) The family has two custodial parents (see OAR 461-001-0000) who are members of the Klamath Tribes, or only one of the two custodial parents is a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; or

(C) The family has a caretaker relative who is not the custodial parent and at least 50 percent of the dependent children are Klamath Tribes members.

(c) The family is eligible for the Klamath Tribes TANF program or would be eligible for the Klamath Tribes TANF program if not for the failure of the family to cooperate with program requirements.

(6) A family is ineligible for TANF program benefits if all of the following subsections apply to the family:

(a) A parent, caretaker relative, or child is a member of the Siletz Tribe (Confederated Tribes of Siletz Indians of Oregon) and lives in one of the eleven service area counties: Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, or Yamhill counties.

(b) The family includes members who are living in the same household and at least one of the following paragraphs applies:

(A) A two-parent family with one enrolled Siletz tribal member with a shared dependent.

(B) A single-parent family with one enrolled Siletz tribal member.

(C) A non-needy caretaker relative or essential person with one enrolled Siletz tribal member who is a minor.

(D) A pregnant enrolled Siletz tribal member in her eighth month of pregnancy.

(c) The family is eligible for the Siletz Tribes TANF program or would be eligible for the Siletz Tribes TANF program if not for the failure of the family to cooperate with Siletz TANF program requirements.

(7) If a parent or caretaker relative covered by section (5) or (6) of this rule fails to follow through with a Department referral to the Klamath or Siletz Tribal TANF program, the entire filing group is ineligible for TANF program benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049 & 412.124

Stats. Implemented: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.064, 412.124 & 2011 OL 604 & 2012 OL 107

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1997(Temp), f. 12-31-97, cert. ef. 1-1-98 thru 4-30-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 26-1998(Temp), f. 12-30-98, cert. ef. 1-1-99 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 19-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 10-28-09; SSP 33-2009, f. & cert. ef. 10-29-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-135-0075

Limitation on Eligibility Period; TANF

(1) A minor parent head of household or an adult may not receive a TANF grant in Oregon if the minor parent head of household or adult has received a TANF grant in any state or states in excess of 60 months except as allowed in this rule.

(2) The following months do not count toward the time limit in section (1) of this rule:

(a) Months prior to July 1, 2003 in which a minor parent head of household or an adult received a TANF grant in Oregon or another state.

(b) Months between July 1, 2003 and September 30, 2007 in which a minor parent head of household or adult received TANF in Oregon; and

(A) Participated in required JOBS activities or other education, employment, or job training program including teen parent programs; or

(B) Was not required to participate in JOBS activities or other education, employment, or job training program including teen parent programs.

(c) Months beginning July 1, 2003 in which the family resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed.

(d) Months beginning October 1, 2007 in which the minor parent head of household or adult is a participant in the JOBS Plus, Pre-TANF, Post-TANF, or SFPSS programs.

(e) Months beginning October 1, 2011 in which the minor parent head of household or adult is a participant in the JPI program.

(f) Months between October 1, 2007 and June 30, 2009 and months between October 1, 2011 and April 30, 2012 in which the filing group (see OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment.

(g) Months beginning October 1, 2007 in which the individual who is now a parent or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.

(h) Months beginning October 1, 2007 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Degree Completion Initiative (DCI) activity (see OAR 461-001-0025) enrolled in an educational institution.

(i) Months beginning October 1, 2008 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Parents as Scholars (PAS) activity (see OAR 461-001-0025) enrolled in an educational institution consistent with OAR 461-190-0199.

(j) Months beginning October 1, 2007 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) because the individual:

(A) Is a victim of domestic violence (see OAR 461-001-0000);

(B) Has a certified learning disability;

(C) Has a verified alcohol and drug or mental health condition;

(D) Has a child with a disability (see OAR 461-001-0000), which prevents the parent from obtaining or keeping employment;

(E) Is an individual with a disability;

(F) Is providing care for a family member who lives in the home and is an individual with a disability;

(G) Is deprived of needed medical care; or

(H) Is subjected to battery or extreme cruelty. For purposes of this rule, an individual is subjected to battery or extreme cruelty if the individual has been subjected to one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(k) Months between July 1, 2008 and April 30, 2012 in which the individual did not qualify for any other TANF time-limit exemption under this rule, and was unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department was equal to or greater than seven percent. For purposes of this rule, this determination --

(A) Through December 31, 2011 is calculated based on a six-month period as follows:

(i) The time period during July 1, 2008 through June 30, 2009 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period July 1, 2008 through December 31, 2008.

(ii) In each six-month period, starting July 1, 2009 and ending December 31, 2011:

(I) The time period during January 1 through June 30 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30 of the preceding year.

(II) The time period during July 1 through December 31 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period October 1 through December 31 of the preceding year and January 1 through March 31 of the current year.

(B) From January 1, 2012 through April 30, 2012 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30, 2011.

(3) Months that do not count toward the time limit based on a condition described in paragraphs (2)(j)(B) to (2)(j)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

(4) A minor parent head of household or an adult may not be denied a TANF grant under section (1) of this rule during months that qualify as exempt from time limits under sections (2), and (3) of this rule.

(5) Each minor parent head of household and adult who qualifies for a TANF grant under this rule must also meet all other TANF eligibility requirements and cooperate with the requirements of his or her case plan, unless good cause (see OAR 461-130-0327) exists.

(6) Except as provided otherwise in section (4) of this rule, a minor parent head of household or an adult in the benefit group who exceeds the 60-month time limit is removed from the need group (see OAR 461-110-0630). When a minor head of household or adult is removed from the need group under this section, the remaining need group members may continue to receive TANF benefits.

(7) If a minor parent head of household or adult qualifies under sections (2), (3), or (4) of this rule, any disqualifications that have been accrued for the benefit group remain in place.

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060, 411.117, 412.049 & 412.079

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 15-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2014, f. & cert. ef. 10-1-14

461-135-0080

TANF Eligibility for Minor Parents

To be eligible for TANF, a minor parent applying for benefits for his or her child must live with the minor's parent, parents or legal guardian unless it is unsafe or impractical for the minor parent to live with those individuals.

Stat. Auth.: ORS 411.060, 412.049

Stats. Implemented: ORS 411.060, 412.049, 412.084

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-135-0082

Eligibility for Refugees

A client is eligible for the Refugee Case Services Project program if he or she meets the requirements of all of the following sections:

(1) Has an alien status listed in OAR 461-120-0125.

(2) Entered the United States on or after October 1, 1997.

(3) Lives in Clackamas, Multnomah, or Washington County.

(4) Has resided in the United States less than eight months or has been granted asylum within the last eight months. The month in which the refugee was admitted to the United States as a refugee, or was granted asylum, counts as the first month. The month in which the special immigrant was admitted to the United States as a special immigrant counts as the first month. If a special immigrant was granted special immigrant status after having already entered the United States, then the month that the status was granted counts as the first month.

(5) Meets the eligibility requirements contained in OAR 461-193-0000 to 461-193-1380.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09

461-135-0085

Requirement to Attend an Assessment or Evaluation, or Seek Medically Appropriate Treatment for Substance Abuse and Mental Health; Disqualification and Penalties; Pre-TANF, REF, TANF

In the Pre-TANF, REF, and TANF programs:

(1) For the purposes of this rule:

(a) "Assessment for substance abuse" means an assessment performed by an appropriate licensed professional with the purpose of discovering the presence of substance abuse.

(b) "Controlled substance" means a drug or its immediate precursor classified in Schedules I through V under the Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this subsection does not control and is not controlled by the use of the term "precursor" in ORS 475.840 to 475.980. Alcohol is not a controlled substance.

(c) "Self-identified illegal use" means an individual states he or she illegally used a controlled substance within the previous 30 days. Illegal use does not include the use of a controlled substance pursuant to a valid prescription, or other use authorized by the Uniform Controlled Substances Act, ORS 475.005 to 475.285 and 475.840 to 475.980, the federal Controlled Substances Act, or other Federal law.

(2) When directed by the Department, an adult member or parenting teen in the need group (see OAR 461-110-0630) must participate in:

(a) An assessment for substance abuse if:

(A) The individual has self-identified illegal use of a controlled substance; and

(B) The assessment is available and at no cost to the individual.

(b) Medically appropriate treatment for substance abuse if it is available and at no cost to the individual when:

(A) The individual reports a qualified and appropriate professional has diagnosed the individual with a substance abuse disorder within the previous twelve months; or

(B) An assessment resulted in a diagnosis requiring medically appropriate treatment for the individual to be successful in the workplace.

(3) When directed by the Department, an adult member or parenting teen in the need group (see OAR 461-110-0630) must participate in medically appropriate treatment for mental health if it is available and at no cost to the individual when:

(a) The individual reports a qualified and appropriate professional has diagnosed the individual with a mental health disorder within the previous twelve months; or

(b) An evaluation resulted in a mental health diagnosis requiring medically appropriate treatment for the individual to be successful in the workplace.

(4) An individual is responsible for providing information needed by the Department to determine whether the individual had good cause (see OAR 461-135-0087) for failing to meet the requirements of this rule. If a medical condition must be evaluated in regard to the requirements of this rule, the Department will assist the client in obtaining a medical opinion from an appropriate medical professional.

(5) An individual who refuses to participate in a required assessment, evaluation, or the medically appropriate treatment required by this rule is subject to disqualification in accordance with this section and OAR 461-130-0330 only after the individual has had an opportunity to participate in the re-engagement process (see OAR 461-190-0231) including a determination by the Department of whether the individual had good cause for non-participation. The penalties are progressive and, once imposed, continue as long as the individual refuses to participate, regardless of a change in the

exempt classification of the individual under the JOBS program (see OAR 461-130-0310).

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09

461-135-0087

Good Cause for Failure to Comply with Substance Abuse or Mental Health Requirements

For the TANF and REF programs, a client has *good cause* for missing a scheduled appointment or for any other failure to comply with the requirements imposed under OAR 461-135-0085 if the failure to comply was caused in significant part by circumstances beyond the client's reasonable control.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99

461-135-0089

Demonstrating Compliance with Substance Abuse and Mental Health Requirements; Restoring Cash Benefits

In the Pre-TANF, REF, and TANF programs:

(1) In order to end a penalty imposed under OAR 461-135-0085:

(a) At the first level of disqualification (see OAR 461-130-0330(3)), a client must:

(A) Cooperate for a period of two consecutive weeks with each activity (see OAR 461-001-0025) specified in the client's current or revised case plan (see OAR 461-001-0025); and

(B) Demonstrate a willingness to participate in treatment required under OAR 461-135-0085 if treatment is still required.

(b) When the second level of disqualification (see OAR 461-130-0330(3)) ends, program benefits are closed for two consecutive months, unless the client:

(A) Begins two consecutive weeks of cooperation with each activity specified in the client's case plan before the end of the level two; and

(B) Demonstrates a willingness to participate in treatment required under OAR 461-135-0085 if treatment is still required.

(2) The penalty imposed under OAR 461-135-0085 ends when REF or TANF program benefits are closed for a reason other than described in OAR 461-130-0330(3)(d).

(3) When the Department removes a disqualification due to a client's compliance with the requirements under OAR 461-135-0085, cash benefits are restored effective the date the client completed the two consecutive week cooperation period.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13

461-135-0200

Multiple Disqualifications, Change in JOBS Status; TANF

(1) This rule describes the method for calculating the net TANF benefit when a client's benefits are affected by the penalty provided in division 130 of this chapter of rules for failure to comply with the requirements of a *case plan* (see OAR 461-001-0025) or the penalty provided by OAR 461-135-0085 and, during the same month, by a concurrent penalty related to child support or a penalty related to recovery from third parties (OAR 461-120-0340 and 461-120-0345 respectively).

(2) If the concurrent penalty relates to child support, during the first three months that the penalties are both applied, the penalty related to the case plan or to OAR 461-135-0085 is applied first, and the concurrent penalty is then applied. During the fourth and successive months, the clients are ineligible for TANF benefits.

(3) If the concurrent penalty relates to recovery from third parties, during the first three months that the penalties are both applied, only the penalty related to third-party recovery is applied. During the fourth and subsequent months, the penalty related to third-party recovery continues and the benefit group (see OAR 461-110-0750) is ineligible for TANF benefits.

(4) A penalty imposed under OAR 461-135-0085 remains in effect when a client becomes mandatory (see OAR 461-130-0310) while serving the penalty.

Stat. Auth.: ORS 411.060, 418.040, 412.049

Stats. Implemented: ORS 411.060, 418.040, 412.049

Hist.: AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-135-0210

TANF Cooperation Incentive Payment

(1) Except as provided in section (3) of this rule, a TANF client or caretaker relative (see OAR 461-001-0000) of a TANF client who volunteers to comply, and continues to comply, with a case plan in the JOBS program (see OAR 461-001-0025) may volunteer to receive an incentive payment. The incentive payment is made to clients in the JOBS program to motivate and recognize their progress toward employment and self-sufficiency. The incentive payment, in the amount authorized by OAR 461 155 0035, is added to the client's cash grant if the client meets the requirements of this rule and volunteers to receive the payment.

(2) A TANF client or *caretaker relative* of a TANF client may not receive the incentive payment if the client's grant is reduced because of an intentional program violation (see OAR 461-195-0611), a failure to comply with a requirement of the Child Support program (see OAR 461-120-0340), or a failure to comply with any other requirement of the TANF program.

(3) All Cooperation Incentive payments end on September 30, 2010. Beginning October 1, 2010, no client in the TANF program will receive a Cooperation Incentive Payment.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 409.050, 411.060, 411.070, 412.006, 412.049

Hist.: AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-135-0300

Eligibility for and Needs Covered by EA

Emergency assistance is available for food and shelter needs of financial groups. To be eligible for EA, a financial group must have a shelter or food need that was caused by natural disaster or that resulted from the financial group's lack of income or cash resources during the month of application and the prior month sufficient to prevent the emergency. The lack of sufficient available money must have resulted from money becoming unavailable due to circumstances beyond the group's control. Circumstances beyond the group's control include:

(1) Theft that occurs notwithstanding the financial group's reasonable precautions to prevent theft.

(2) The need to use the money for unexpected and necessary expenditures, such as the payment for car repairs when the car is used for work or for a family emergency.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 18-1990(Temp), f. & cert. ef. 7-13-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-9; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04

461-135-0301

Closure of the Emergency Assistance (EA) Program Effective May 1, 2004

(1) Effective January 1, 2003, the EA program is not funded. Notwithstanding other rules of the Department, the program is closed effective that date.

(2) Effective December 31, 2002, all persons eligible for or receiving benefits of the program become ineligible for the program. The Department will not authorize or provide any benefit for any period after December 31, 2002 except as provided below in this rule.

(3) Effective December 1, 2003, the EA program is funded. The program is open effective that date for any person who meets the eligibility requirements on or after December 1, 2003.

(4) Effective May 1, 2004, the EA program is not funded. Notwithstanding other rules of the Department, the program is closed effective that date.

(5) Effective April 30, 2004, all persons eligible for or receiving benefits of the EA program become ineligible for the program. The Department will not authorize or provide any benefit for any period after April 30, 2004.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 30-2003(Temp), f. & cert. ef. 12-1-03 thru 4-30-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 12-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-0310

Covered Shelter Needs; EA

The following shelter needs are specifically covered by the Emergency Assistance program:

(1) Rent, mortgage, and utility costs, including basic payments, connection charges, and deposits.

(2) Moving costs.

(3) Property tax up to one year, if necessary to avoid foreclosure.

(4) Transportation to another area or residence.

(5) Repairs to provide safe housing, including one-time house, electrical, and plumbing repairs if essential to the health and safety of the occupants and if less costly than moving to other quarters. Repairs are authorized under this section only for clients who are homeowners or holders of a life estate.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04

461-135-0320

Time Limits; EA

(1) A financial group determined eligible for EA is eligible for assistance for 30 consecutive days for any needs covered by OAR 461-135-0300 and 461-135-0310.

(2) A benefit group is not eligible for the EA program until the first day of the twelfth month following the start of a previous period of eligibility in Oregon. This limitation applies to the whole group if any member of the group is affected by it.

(3) The limitation in section (2) does not apply if its application would make it more difficult for the client to escape *domestic violence* or place the client at risk of further *domestic violence*.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04

461-135-0340

Work Requirements; EA

To be eligible for EA, an adult filing group member or a *dependent child*, if required to participate in the JOBS program, must not have done any of the following without *good cause* (see OAR 461-130-0327) in the 30 days before receiving emergency assistance benefits:

(1) Quit or refused a job.

(2) Refused a referral to a job or training.

(3) Been discharged for misconduct in accordance with the unemployment insurance compensation laws of Oregon.

(4) Reduced his or her earnings.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04

461-135-0350

Eligible People; EA

To be eligible for EA, a client must be a *dependent child* (defined in OAR 461-135-0070), a *caretaker relative* (defined in OAR 461-135-0070(1)(b) or (c)), or the mother of an unborn child whose pregnancy has reached the calendar month before the month in which the due date falls.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 17-2004, f. & cert. ef. 7-1-04

461-135-0400

Specific Requirements; ERDC

(1) The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules.

(2) To be eligible for ERDC, a filing group (see OAR 461-110-0350) must meet the requirements of all of the following subsections:

(a) At least one caretaker (see OAR 461-001-0000) must receive income from employment. This includes self-employment (see OAR 461-145-0910) and employment through a work study program.

(b) The filing group must include a child (see OAR 461-001-0000) who needs child care.

(c) The filing group must have an allowable child care need as described in OAR 461 160 0040. If there are two adults required to be in the filing group, and one of the adults is unemployed, the unemployed adult is considered available to provide child care, making the filing group ineligible, except in the following situations:

(A) The unemployed adult is physically or mentally unable to provide adequate child care. This must be verified (see OAR 461-125-0830).

(B) The unemployed adult is unavailable to provide child care while participating in the requirements of a case plan (see OAR 461-001-0025) other than requirements associated with post-secondary education.

(d) The filing group must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.

(e) The child needing child care must meet the citizenship or alien status requirements of OAR 461-120-0110.

(3) A filing group not willing to obtain a Certificate of Immunization Status for the child is not eligible for a child care payment for more than twelve calendar months, or longer if child care continues under OAR 461-160-0040(5).

(4) The child care must be necessary to enable the caretaker to remain employed, including self-employed.

(5) A filing group is not eligible for child care when the caretaker or parent (see OAR 461-001-0000) in the filing group receives a grant for child care from the Oregon Student Assistance Commission for any month the grant is intended to cover, regardless of when the grant is received.

Stat. Auth.: ORS 409.050, 411.060, 411.070, OL 2015, ch. 698

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 418.485, OL 2015 ch. 698

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 34-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 7-2011(Temp), f. & cert. ef. 2-16-11 thru 8-15-11; SSP 9-2011(Temp), f. & cert. ef. 3-22-11 thru 8-15-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-135-0405

Children in the Head Start Program; ERDC and TANF

(1) Initial eligibility (see OAR 461-001-0000) for the ERDC program (see OAR 461-135-0400) or the TANF program (see OAR 461-135-0070) must be met prior to receiving child care under a contract between a Head Start agency and the Department.

(2) The following subsections apply when a child (see OAR 461-001-0000) in the ERDC or TANF programs receives child care under a contract between a Head Start agency and the Department.

(a) The Head Start agency is considered the provider of child care.

(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.

(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department.

(d) Once the Department makes a child care payment for the child under the contract, the child may not lose child care benefits until the next August 31, unless any of the following paragraphs apply:

(A) The child's caretaker (see OAR 461-001-0000) has been found ineligible for ERDC program benefits under OAR 461 135 0415 for failure to make a copayment.

(B) The caretaker was found ineligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined.

(C) The caretaker fails to meet the requirements of the locally-prepared agreement among the client and the Head Start program.

(D) The child is no longer attending a Head Start contracted program.

(E) The caretaker of the child voluntarily quits their job or causes their own dismissal and does not meet the “good cause” criteria set out in OAR 461-135-0070(2).

(F) The caretaker of the child is no longer employed and enrolls in school, unless the caretaker is:

(i) Continuing to actively seek employment during the hours the contracted Head Start program is operating; and

(ii) Available to work during the operating hours of the contracted Head Start program.

(G) In the TANF program:

(i) The case closes due to disqualification (see OAR 461-130-0330); or

(ii) The caretaker is not actively participating in an open case plan (see OAR 461-001-0025).

(H) The filing group (see OAR 461-110-0350) no longer meets Oregon residency requirements under OAR 461-120-0010.

(e) For any month in which the child is eligible to be served under a contract covered by this rule is receiving ERDC, the client’s copayment is \$27.

(f) For any month in which a child in a contract covered by this rule is eligible for and receiving TANF, the copay is zero.

(3) The Department will not make a child care payment for a child in a Head Start program if the child’s caretaker has been found ineligible for ERDC program under OAR 461-135-0415 for failure to make a copayment.

Stat. Auth.: ORS 409.050, 411.060, 411.116, 412.049

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.122, 412.049

Hist.: AFS 33-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 11-2014(Temp), f. & cert. ef. 4-10-14 thru 10-7-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 16-2015, f. & cert. ef. 4-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-135-0407

Children in Oregon Program of Quality Contracted Child Care; ERDC and TANF

(1) Initial eligibility (see OAR 461-001-0000) for the ERDC program (see OAR 461-135-0400) or the TANF program (see OAR 461-135-0070) must be met prior to receiving child care under a contract between an Oregon Program of Quality (OPQ) provider and the Department.

(2) The following subsections apply when a child (see OAR 461-001-0000) in the ERDC or TANF programs receives child care under a contract between an OPQ provider and the Department.

(a) The payment made by the Department on behalf of the child is made only to the OPQ provider. The child is ineligible for child care payments for care not provided under the contract between the OPQ provider and the Department.

(b) Once the Department makes a child care payment for the child under the contract, the child may not lose child care benefits until the next August 31, unless any of the following paragraphs apply:

(A) The child is no longer attending an OPQ contracted provider.

(B) The filing group (see OAR 461-110-0350) was found ineligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined.

(C) The filing group fails to meet the requirements of the agreement between the client and the OPQ provider.

(D) The caretaker (see OAR 461-001-0000) of the child voluntarily quits their job or causes their own dismissal, and does not meet the “good cause” criteria set out in OAR 461-135-0070(2).

(E) The caretaker of the child is no longer employed and enrolls in school full time, unless the caretaker is --

(i) Continuing to actively seek employment during the hours the OPQ contracted child care program is operating; and

(ii) Available to work during the operating hours of the OPQ provider.

(F) In the ERDC program, the caretaker of the child has been found ineligible under OAR 461-135-0415 for failure to make a copayment.

(G) In the TANF program:

(i) The case closes due to disqualification (see OAR 461-130-0330); or

(ii) The caretaker is not actively participating in an open case plan (see OAR 461-001-0025).

(H) The filing group (see OAR 461-110-0350) no longer meets Oregon residency requirements under OAR 461-120-0010.

(3) For any month in which a child is eligible to be served under a contract covered by this rule is receiving ERDC, the client’s copayment is \$27.

(4) For any month in which a child is eligible to be served under a contract covered by this rule is eligible for and receiving TANF, the copay is zero.

Stat. Auth.: ORS 409.050, 411.060, 411.116, 412.049

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.121, 411.122, 411.135, 412.049

Hist.: SSP 29-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 11-2013(Temp), f. & cert. ef. 5-15-13 thru 11-11-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 12-2014(Temp), f. & cert. ef. 5-1-14 thru 10-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 16-2015, f. & cert. ef. 4-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-135-0415

Requirement to Make Copay or Satisfactory Arrangements; ERDC

In the ERDC program:

(1) The caretaker is responsible for paying the copayment to the primary provider of child care unless the Child Care Billing form was sent to the provider showing no copayment.

(2) If the client has only one provider during a month, that provider is the primary provider. If the client uses more than one provider, the client must designate one as the primary provider. Notwithstanding any designation by the client, the Department considers a provider having the copayment amount (not to exceed the client’s established copayment amount) deducted from its valid billing statement the primary provider for that period.

(3) If the copayment exceeds the amount billed by the primary provider, the Department may treat a different provider as the primary provider or split the copayment among the providers who bill for care.

(4) The copayment amount due from the caretaker to the provider is the lesser of:

(a) The copayment amount determined by the Department based on family size and income.

(b) The total amount allowed by the Department on a provider claim.

(5) A client who fails to pay a copayment to or to make satisfactory arrangements with the primary provider is ineligible for ERDC if the provider notifies the Department of an overdue copayment within 60 days after the Department issues payment for the month at issue. The period of ineligibility ends under any of the following circumstances:

(a) On the first day of the month in which the client makes the copayment or makes satisfactory arrangements with the provider.

(b) On the first day of the month after three years have lapsed from the date the client failed to make the copayment.

(c) On the first day of the month in which the client provides verification that the copayment debt was discharged by a bankruptcy filing.

(6) The Department will make the payment to a provider if a Child Care Billing form is mailed to the provider prior to the notification described in section (5) of this rule.

Stat. Auth.: ORS 409.050, 409.610, 411.060, 411.070, 411.122

Stats. Implemented: ORS 409.050, 409.610, 411.060, 411.070, 411.122

Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-135-0475

Specific Requirements; Pre-TANF Program

(1) This rule explains specific requirements for the Pre-TANF program. The eligibility criteria of the Pre-TANF program are the same as the TANF program. It is not the intent of the Pre-TANF program to delay the start of TANF program benefits. The purposes of the Pre-TANF program are:

- (a) To help individuals find employment or other alternatives;
- (b) To assess the employment potential of individuals;
- (c) To help individuals determine the service level needed to enhance their employability and their likelihood of becoming self sufficient;
- (d) To determine if a needy caretaker relative (see OAR 461-001-0000) has or may have a barrier to employment or to family stability.

(e) To develop an individualized case plan (see OAR 461-001-0025), when appropriate, that establishes goals and identifies suitable activities (see OAR 461-001-0025) that promote family stability and financial independence.

(f) To provide basic living expenses, as described in section (5) of this rule, immediately to families in need.

(2) Applicants for the TANF program whose unverified application indicates the client meets the TANF eligibility requirements participate in the Pre-TANF program. Their applications for the TANF program are also considered applications for the Pre-TANF program. The Pre-TANF program is open for not longer than 45 days following the date of request (see OAR 461-115-0030).

(3) Individuals in the Pre-TANF program are subject to the requirements of the JOBS program, described in divisions 130 and 190 of this chapter of rules, and they are subject to the requirements of OAR 461-135-0085 pertaining to substance abuse and mental health.

(4) During the Pre-TANF program, each caretaker relative in the need group (see OAR 461-110-0630) must complete an employability screening (see OAR 461-135-0485). At least one caretaker relative in the need group must participate in an overview of the JOBS program (see OAR 461-135-0485). If the employability screening indicates there is or may be a barrier, the individual must be offered additional screenings, at no cost to the individual, by a person with relevant expertise or specialized training. When appropriate, per OAR 461-190-0211, the individual and the Department prepare a case plan that lists the activities of the client and support services payments if available.

(5) The Department may provide the client with basic living expenses necessary to stabilize the household so the client can accomplish the activities in the case plan. Basic living expenses covered by this section are limited to the current need of the client for personal incidentals that the client cannot meet with other, immediately available resources. Payments under this section are limited to 100 percent of the payment standard for the benefit group (see OAR 461-155-0030(2)(b)). Payment for "past expenses" is made only when the need of the client cannot be adequately met by a less expensive alternative.

(6) During the Pre-TANF program, an individual may receive support services payments listed in the case plan pursuant to OAR 461-190-0211.

(7) The Pre-TANF program is closed, at any point during the 45 days following the date of request (see OAR 461-115-0030) for TANF program benefits, in any of the following circumstances:

- (a) The client is unlikely to become employed due to the employability of the client, the circumstances affecting the family, or other causes.
- (b) The client fails without good cause (see OAR 461-130-0327) to comply with a requirement of an employment program or the case plan.
- (c) In any circumstance that would make a client ineligible for TANF.
- (d) Upon starting a JOBS Plus assignment.
- (e) Upon employment and enrollment in the Post-TANF program.

(8) If Pre-TANF benefits are closed pursuant to subsection (7)(a) or (b) of this rule, TANF benefits may be opened if all TANF eligibility requirements are met.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064, 2011 Oregon Laws 604

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 16 2009(Temp), f. & cert. ef. 7-1-09 thru 9-28-09; Administrative correction 10-22-09; SSP 20-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 27-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11

461-135-0485

Requirement to Complete an Employability Screening and Overview of the Job Opportunity and Basic Skills (JOBS) program; TANF

(1) As used in this rule:

(a) "Employability screening" means the DHS 7823A - Employability Screening Tool.

(b) "Overview of the JOBS program" means a discussion with the caretaker relative (see OAR 461-001-0000) in the need group (see OAR 461-110-0630) about the requirements and services provided under the JOBS program.

(2) To be eligible for TANF benefits, the following must be completed prior to the end of the application processing time frames in OAR 461-115-0190:

(a) Each caretaker relative in the need group must complete an employability screening (see section (1) of this rule); and

(b) At least one caretaker relative in the need group must participate in an overview of the JOBS program (see section (1) of this rule).

(3) The employability screening and overview of the JOBS program must be offered during the initial eligibility intake for TANF program benefits.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124, 2011 Oregon Laws 604

Stats Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064, 412.124, 2011 Oregon Laws 604

Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12

461-135-0491

Disaster SNAP program (DFSP)

(1) OAR 461-135-0491 to 461-135-0497 apply only to the Disaster SNAP program and only to a disaster benefit period and location authorized by the Food and Nutrition Service.

(2) The regular SNAP program continues to operate during a disaster benefit period and continues to process applications and make eligibility determinations in the normal manner.

(3) The following definitions apply to OAR 461-135-0491 to 461-135-0497:

(a) "DFSP" refers to the Disaster SNAP program.

(b) "FNS" refers to the Food and Nutrition Services, United States Department of Agriculture.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-135-0492

Application, Interviews, and Verification for DFSP

(1) To file an application for DFSP, a household must submit a completed application (DHS 349).

(a) The household must submit this application at a certification site in person or through an *authorized representative* (as described at OAR 461-115-0090 and 461-115-0140).

(b) The application must be filed before the expiration of the period during which FNS has authorized the Department to process and approve applications for DFSP.

(c) The application must be signed by a responsible member of the household or by an authorized representative designated by the household.

(2) As part of the process for determining eligibility, the household or its authorized representative must be interviewed and must provide limited verification as described in section (3) of this rule.

(a) The Department must advise the household orally and in writing about the disposition of its application, its rights and responsibilities, when its emergency certification period ends, and about the regular SNAP program.

(b) The Department must advise the household of the civil and criminal penalties for violations of the Food Stamp Act, and of the fact that the household may be subject to a post-disaster review.

(c) The Department must inform each DFSP-eligible household about the proper use of SNAP benefits.

(3) As part of the process for determining eligibility, the household or its authorized representative must provide verification for the following:

(a) The identity of the applicant;

(b) The location of the residence of the applicant in the disaster area;

(c) The residence of the applicant in the disaster area at the time of the disaster; and

(d) An estimate of total take-home pay, cash resources, and allowable disaster-related expenses. (see OAR 461-135-0493(2)).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-135-0493

Eligibility and Benefit Amount for SNAP

(1) To be eligible for emergency SNAP assistance during a disaster, a household must meet all the following criteria:

(a) At the time the disaster struck, the household must have resided within the geographical area authorized by Food and Nutrition Services (FNS) for disaster procedures. The household may be certified for emergency SNAP assistance even if at the time of application it is occupying temporary accommodations outside the disaster area. However, the representative of the household must be present at the disaster certification site to be certified for DSNAP assistance.

(b) The household must purchase food during the disaster period authorized by FNS. A household residing in a temporary shelter but not expected to remain in the shelter for the entire benefit period is eligible for DSNAP program benefits.

(c) The household must have experienced at least one of the following adverse effects due to the disaster:

(A) Loss or inaccessibility of income involving a reduction or termination of income or a significant delay in receipt of income. This effect could occur if the disaster has caused a place of employment to close or reduce its work days, if pay checks or other payments are lost or destroyed, or if there is a significant delay in the issuance of pay checks or other payments. This effect could also occur if the work location is inaccessible due to the disaster.

(B) Inaccessibility of liquid resources. The household is unable to reach its cash resources and is not expected to be able to access its liquid resources for most of the disaster benefit period authorized by FNS. This inaccessibility may occur because the financial institutions where the household has its resources are closed due to the disaster.

(C) Loss of food.

(D) Real property damage. Damage to or destruction of the home or self-employment business of the household.

(2) To be eligible for emergency SNAP assistance during a disaster, the take-home pay of the household for the disaster benefits period authorized by FNS, plus its cash resources (cash on hand and accessible funds in checking and savings accounts), less disaster-related expenses, must be less than or equal to the DSNAP income standard for the size of the household.

(a) For DSNAP take-home pay includes all of the following to the extent accessible during the benefit period:

(A) The wages a household actually receives after taxes and other payroll withholdings are taken out.

(B) The assistance payment or other unearned income a household received.

(C) Self-employment income earned after taxes for personal income and social security as well as costs of producing the self-employment income are subtracted. Allowable costs of producing the self-employment income are described in OAR 461-145-0920, 461-145-0930, and 461-145-0931.

(b) For DSNAP, disaster-related expenses include expenses the household has paid or is expected to pay for one of the following expenses during the disaster benefit period authorized by FNS if full reimbursement is not expected during this disaster benefit period. If the household has received or reasonably anticipates receiving a reimbursement for part or all of the expense during the disaster benefit period, only the net expense to the household is deductible. An expense charged to a credit card is not an allowable expense if the credit card bill is paid after the disaster benefit period. No expenses are considered other than the following:

(A) Expenses to repair damages to the home or other property of the household essential to the employment or self-employment of a household member;

(B) Expenses for temporary shelter during evacuation or if the home of the household is not livable or if the household cannot reach its home;

(C) Expenses related to protecting property from disaster damage, including payment for the packing and storage of the items;

(D) Expenses to clean up the home or business following the disaster;

(E) Expenses related to replacing necessary personal and household items, such as clothing, appliances, tools, and educational materials;

(F) Medical expenses for disaster-related injury to a person who was a household member at the time of the disaster (including funeral and burial expenses in the event of death);

(G) Expenses to repair a vehicle damaged in the disaster;

(H) Pet boarding fees when a pet must be placed in boarding due to a disaster; and

(I) Dependent care expenses incurred during the disaster.

(3) If the disaster benefit period is one month:

(a) Income over that full month period and all accessible resources are counted;

(b) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over that full month period, are deducted; and

(c) The maximum income limit is for a one-month period.

(4) If the disaster benefit period is for one-half month:

(a) Income over the half-month period and all accessible resources are counted;

(b) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over this period, are deducted; and

(c) The disaster eligibility limit is one-half of the monthly SNAP maximum limit.

(5) The full amount of accessible cash resources must be counted, regardless of the length of the disaster benefit period.

(6) No disaster DSNAP program benefits are authorized after the expiration of the period for which the Department is authorized by FNS to process and approve applications for this emergency SNAP assistance.

(7) A household determined eligible must receive benefits no later than three days after the date of application. If the third day falls on a weekend or holiday, benefits must be issued on either:

(a) The second day; or

(b) The first day if the second day is also a weekend or holiday.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2007(Temp), f. & cert. ef. 12-17-07 thru 12-31-07, Administrative Correction 1-24-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0494

DFSP Treatment of Households Already Certified and Receiving SNAP benefits

(1) Households certified for SNAP benefits may also be eligible for emergency food stamp assistance from the DFSP according to OAR 461-135-0491 to 461-135-0497.

(2) When food purchased with SNAP benefits is damaged by a disaster, the value of the damaged food is replaced using OAR 461-165-0230. The replaced SNAP benefits are not included in the loss of food under OAR 461-135-0493.

(3) The disaster benefits are calculated using the maximum disaster benefits for the benefit group (see OAR 461-110-0750) minus the regular food stamp allotment for the benefit period.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0495

Recertifications for DFSP

(1) A certified household that has already received emergency benefits may apply for recertification and receive additional SNAP benefits for an additional benefit period if:

(a) The household still meets the disaster eligibility criteria; and

(b) FNS extends the authorization period beyond the end of the original disaster benefit period and authorizes the Department to permit certified households who have already received emergency benefits to apply for recertification.

(2) A household applying for recertification must again submit an application (DHS 349) and be interviewed.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-135-0496

Hearings for DFSP

(1) A household denied emergency SNAP benefits is entitled to an expedited hearing as provided under OAR 461-025-0315.

(2) A household requesting a hearing must be offered an immediate supervisory review of its case.

(3) The supervisory review does not replace the expedited hearing. If the situation is resolved by the supervisory review:

(a) The request for a hearing may be withdrawn if the client withdraws the hearing in writing; or

(b) The Department may request a final order that documents the agreed resolution under OAR 137-003-0510(4) and 137-003-0665(5).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-135-0497

Household Liability in the DFSP

(1) Households are held liable for any overissuances or overpayments discovered in the course of post-disaster audit activities.

(2) The Department establishes claims and applies penalties in accordance with OAR 461-195-0501 to 461-195-0621 against any household that received more DFSP benefits than it was entitled to receive.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-135-0498

Pandemic-related Supplemental Nutrition Assistance Program; PSNAP

In the Pandemic-related Supplemental Nutrition Assistance Program (PSNAP):

(1) The purpose of this rule is to set forth the policies for determining the activation of, eligibility for, and issuance of benefits under the PSNAP program for children certified eligible to receive free and reduced price school lunch benefits during a pandemic-related school closure. This program may be activated and

benefits issued for the period October 1, 2009 through September 30, 2010.

(2) The PSNAP program is activated when:

(a) The school or school district notifies the Department of a school closure lasting a minimum of five consecutive school days due to pandemic-related illness; and

(b) The school identifies each child participating in the free or reduced price school lunch program.

(3) When the PSNAP program has been activated, only households meeting the following requirements may qualify for PSNAP program benefits. The school or school district provides the following items to the Department:

(a) The name of the parent (head of the household);

(b) The address of the household; and

(c) The name and date of birth for each child participating in the free or reduced price school lunch program.

(4) The Department matches the school data with the existing SNAP program files to identify which children are in households already participating in the SNAP or TANF programs. The Department deems these households to have EBT cards and does not send new EBT cards to them.

(5) The Department issues a new EBT card to each household in the school data that is not currently participating in a Department program via an EBT card.

(6) PSNAP program benefits are given to all eligible households for the expected five consecutive days of school closure.

(a) The allotment amount is equal to the value of the school lunch multiplied by the number of lunches that will be missed. The value of the school lunch must be equal to the federal reimbursement rate for the lunch at the free rate.

(b) A household may qualify for a second week of benefits when the school is closed for six or more consecutive school days.

(7) PSNAP program benefits are issued via an EBT account and restricted to the purchase of food only.

(8) PSNAP program benefits are issued to an eligible household within ten business days from the day the Department receives notice of the school closure and the school data. The benefits are issued no later than 45 days following the first day of the school closure.

(9) A household certified to receive PSNAP program benefits receives a written *decision notice* (see OAR 461-001-0000) which includes the reason for the PSNAP program benefits, the amount of the benefits, how the benefits may be used, and contested case hearing rights.

Stat. Auth.: ORS 411.806 - 411.845

Stats. Implemented: ORS 411.806 - 411.845

Hist.: SSP 5-2010, f. & cert. ef. 4-1-10

461-135-0505

Categorical Eligibility for SNAP

(1) An individual is categorically eligible for SNAP benefits if the individual:

(a) Receives or is authorized to receive GA or SSI benefits;

(b) Receives or is authorized to receive cash, in-kind benefits, or services funded either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort;

(c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or

(d) Is a member of a financial group (see OAR 461-110-0530) with countable (see 461-001-0000) income less than 185 percent of the federal poverty level as described in 461-155-0180(6), does not have liquid assets in excess of \$25,000, and has received a pamphlet about Information and Referral Services. Liquid assets are assets that are easily accessible and do not need to be sold to access their value.

(2) For an entire filing group to be categorically eligible for SNAP benefits, it must contain only clients who are categorically eligible for SNAP benefits. For the purpose of determining who is categorically eligible for SNAP benefits, in the ERDC and TA-DVS programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit.

(3) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.

(4) An individual categorically eligible for the SNAP program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The individual is also presumed to meet the requirements for a social security number, sponsored alien information, and residency, if verified in a public assistance or medical assistance program.

(5) When a filing group contains both members who are categorically eligible for SNAP benefits and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.

(6) An individual may not be categorically eligible for SNAP benefits in either of the following circumstances:

(a) The individual is disqualified from receiving SNAP benefits because of an intentional program violation.

(b) The individual is a primary person (see OAR 461-001-0015) disqualified from receiving SNAP benefits for failure to comply with an OFSET activity or component contained in an OFSET case plan (see OAR 461-001-0020).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 29-2000(Temp), f. & cert. ef. 12-1-00 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-135-0506

Transitional Benefit Alternative (TBA) in the SNAP program

(1) This rule establishes the transitional benefit alternative (TBA). A client participating in TBA continues to receive SNAP benefits without reduction during the transition period. The transition period is five months. If the filing group (see OAR 461-110-0370) separates into two groups during the TBA period, only the group containing the head of household continues in the TBA.

(2) In the SNAP program, a client who receives a cash grant from the Department in the SFPSS or TANF programs may participate in TBA when the benefits are stopped, except as provided in section (4) of this rule.

(3) The benefit level for the transition period is based on countable income for SNAP during the last month before TBA begins, but the Title IV-A grant is not counted as income. Once it is established, the TBA benefit level is changed only when:

(a) The filing group submits a new application in the SNAP program and will receive more SNAP benefits if they are not using the TBA reporting system;

(b) A member of the filing group leaves and applies for SNAP benefits as a member of another household; or

(c) The Department initiates a change identified in OAR 461-170-0200.

(4) A household may not participate in TBA in each of the following situations:

(a) A member of the filing group is receiving benefits of the TANF program.

(b) The TANF benefits are stopped because the household does not reside in Oregon.

(c) The TANF benefits are stopped because of a change that results in ineligibility for TANF and the household failed to complete a timely report or to complete a required action on time.

(d) As of the date the TANF case closed, an individual in the household was serving a penalty imposed in the TANF program.

(e) The TANF benefits are stopped at the request of the household after the household is informed of an impending disqualification in the TANF program.

(f) The head of household becomes ineligible for the SNAP program because he or she lives in an institution or in a facility that provides at least 50 percent of the meals.

(g) A member of the financial group (see OAR 461-110-0530) is subject to a penalty in the SNAP program because of the individual's conduct, for instance, because the individual:

(A) Was excluded from the need group under OAR 461-110-0630(5);

(B) Was penalized for failure to meet a requirement of an employment program;

(C) Was ineligible for SNAP benefits under OAR 461-105-0410; or

(D) Was ineligible for or disqualified from participation in the SNAP program because of a failure to comply with a requirement of the program to provide complete and accurate information to the Department.

(5) Once the TBA benefits have ended, a client's eligibility for the SNAP program is determined on the basis of a new application.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0510

Residents of Institutions; SNAP

(1) Individuals who live in an institution that provides them with at least 50 percent of their meals as a part of the normal services of the institution are not eligible for SNAP benefits, except as identified in section (2) of this rule.

(2) Individuals residing in the following types of institutions may participate in the SNAP program:

(a) Domestic violence shelters.

(b) Public or private nonprofit shelters for homeless individuals.

(c) Federally-subsidized housing for the recipients of benefits under Title I, II, X, XIV, or XVI of the Social Security Act who are elderly, blind, or have disabilities.

(d) Residential private, nonprofit drug addiction or alcoholic treatment and rehabilitation programs or publicly operated community mental health centers operated under the criteria set forth in OAR 461-135-0550(2).

(e) A resident of a group living facility (see OAR 461-001-0015) may receive benefits only if:

(A) The resident applies through an authorized representative (see OAR 461-115-0090) who is an employee of the facility, unless the facility determines that the resident can apply on his or her own; and

(B) The individual meets all other SNAP eligibility requirements.

(3) Individuals covered by section (2) of this rule must be treated as separate filing groups from the others with whom they reside, unless required to be in the same filing group under OAR 461-110-0370(2).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

461-135-0520

Eligibility Requirements for ABAWD; SNAP

This rule establishes eligibility requirements for receipt of SNAP benefits for certain adults.

(1) An able-bodied adult without dependents (ABAWD) is a client 18 years of age or over, but under the age of 50, without dependents. For the purpose of this definition, "without dependents" means there is no child under the age of 18 years in the client's filing group.

(2) An ABAWD who does not meet one of the exemption criteria in OAR 461-130-0310(2) must do one of the following, as designated in his or her Department-approved plan.

(a) Work for pay or as a volunteer an average of 20 hours or more per week. Voluntary work must be performed for a private for-profit or non-profit employer or a governmental agency. For self-employed clients, countable income after deducting the costs of producing income must average at least the federal minimum wage times 20 hours per week. A client may meet the requirement of this subsection by combining different work activities in one month as long as the 20-hour requirement is met.

(b) Participate in a program under the Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936 (1998).

(c) Participate in a program under section 236 of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2023, (1975) (19 U.S.C. 2296).

(d) Comply with the OFSET requirements described in OAR 461-001-0020, 461-130-0320, 461-130-0325, and 461-190-0600.

(3) Under a waiver from the United States Department of Agriculture, the limitation on eligibility for SNAP benefits contained in section 6(o)(2) of the Food Stamp Act (7 U.S.C. 2015(o)(2)) is not applicable.

(4) An ABAWD who fails to comply with the requirements of section (2) of this rule is subject to the disqualification provided in OAR 461-130-0330(2).

(5) An ABAWD involved in the activities specified in section (2) of this rule or an OFSET activity listed in his or her case plan (see OAR 461-001-0020) is eligible for support service payments for necessary transportation or other costs related to completing the activity.

[Publication.: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 8-2001, f. & cert. ef. 5-1-01; AFS 8-2002, f. & cert. ef. 5-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-135-0521

Job Quit by Applicants; SNAP

(1) An applicant who is required to meet the OFSET requirements in OAR 461-130-0320, who voluntarily and without good cause quits a job or reduces the weekly number of hours of work to below 30, is ineligible for SNAP benefits.

(2) For purposes of this rule, a person quits a job upon quitting a job of at least 30 hours a week or the equivalent of 30 hours a week multiplied by the federal minimum wage.

(3) The period of ineligibility is determined as follows. If the filing date falls within the 30-day period following a job quit or work reduction described in sections (1) and (2) of this rule, the person who quit the job or reduced work hours will be ineligible during the month in which the filing date falls and for the appropriate OFSET disqualification of one, three or six calendar months (see OAR 461-130-0330).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 13-2002, f. & cert. ef. 10-1-02

461-135-0530

People in Adult Foster Care (AFC) and Boarding Houses; SNAP

(1) Residents of commercial boarding houses are not eligible for SNAP benefits. A person operating the boarding house and his or her filing group may receive benefits separate from the residents. *Commercial boarding house* is defined in 7 CFR 273.1 as a commercial establishment that offers meals and lodging for compensation

with the intent of making a profit. The definition does not include federally subsidized housing for the elderly, alcohol or drug treatment centers, group homes, battered persons shelters, or homeless shelters.

(2) Residents of AFC facilities not licensed by the State are not eligible for SNAP benefits. Residents of AFC facilities licensed by the state must apply with their caregiver to be eligible for SNAP benefits, as required by OAR 461-110-0370.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 7-2003, f. & cert. ef. 4-1-03

461-135-0550

Residents of Drug Addiction and Alcohol Treatment Facilities; SNAP

(1) Except as provided in section (2) of this rule, a resident of a drug addiction or alcoholic (DAA) treatment and rehabilitation program (resident) is certified for SNAP benefits in the same manner as other households.

(2) A resident who regularly participates in a tax-exempt publicly operated or private non-profit program must apply for SNAP benefits through an authorized representative who is an employee of the program if:

(a) The program is certified by the Addictions and Mental Health Division of the Oregon Health Authority to receive funding under part B of title XIX of the Public Health Service Act;

(b) The program is certified by the Addictions and Mental Health Division of the Oregon Health Authority as operating to further the purposes of part B of title XIX of the Public Service Act and the facility is tax-exempt; or

(c) The program is authorized as a retailer by the Food and Nutrition Service.

(3) A program meeting the criteria in section (2) of this rule must comply with all of the following requirements:

(a) File an application in the manner required by OAR 461-115-0020 for each resident for which the facility wants to receive SNAP benefits.

(b) Assign an authorized representative who will sign the application, participate in the interview, and provide all requested verification on the behalf of each resident.

(c) Comply with the responsibilities set forth in OAR 461-115-0145.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

461-135-0560

Fleeing Felon and Violators of Parole, Probation, and Post-Prison Supervision; GA, GAM, SNAP and TANF

(1) A person is ineligible for the SNAP, GA, GAM, and TANF programs if he or she is a fleeing felon or in violation of parole, probation, or post-prison supervision.

(2) A fleeing felon is a person who knowingly flees to avoid either of the following:

(a) Prosecution or custody for a crime or attempt to commit a crime that is classified as a felony.

(b) Confinement following conviction of a felony.

(3) For purposes of this rule, the crime must be considered a felony under the laws of the place from which the person is fleeing or, in the case of New Jersey, a high misdemeanor under the law of New Jersey.

(4) A person is in violation of parole, probation, or post-prison supervision if the Department receives a report of this violation from a local, state, or federal corrections agency or court responsible for supervision of the person. The violation continues until the Department receives a report from the corrections agency or court that the person is no longer in violation.

(5) If there is a pending arrest warrant for a person for a felony, a high misdemeanor under the law of New Jersey, or a violation of parole, probation, or post-prison supervision, the person is ineligible under this rule if the person is aware of the arrest warrant and has not provided the Department with evidence on request that the person made a substantial effort within his or her ability to resolve the warrant.

(6) A person is no longer considered a fleeing felon if the arrest warrant is no longer pending or the person provides the Department with evidence that the person made a substantial effort within his or her ability to resolve the warrant.

Stat. Auth.: ORS 411.060, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.816, 412.049
Hist.: SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-135-0570

Eligible and Ineligible Students; SNAP

In the SNAP program:

(1) For the purposes of this rule and OAR 461-001-0015, "higher education" refers to the following:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL and high school equivalency programs at those institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.

(2) Except to the extent provided otherwise in section (4) of this rule, an individual is considered a "student of higher education" if all of the following subsections apply:

(a) The individual is attending higher education (see section (1) of this rule) at least half time or more as determined by the school.

(b) The individual is 18 years of age or older, but under 50 years of age.

(3) To be eligible for SNAP benefits, a student of higher education (see section (2) of this rule) must meet the requirements of one of the following subsections:

(a) Subject to section (6) of this rule, the student of higher education is:

(A) A paid employee (see OAR 461-001-0015) working an average of 20 hours or more per week except as excluded by section (6) of this rule; or

(B) Self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(b) The student of higher education is awarded a state or federally funded work-study and has been assigned to a work-study position, and will perform work in a work-study job in the current term or semester. The period of eligibility for a student eligible because of this subsection:

(A) Begins with the month in which school begins or with the month that work study is approved, whichever is later.

(B) Continues for the duration of the term or semester, unless the student refuses a work-study job.

(C) Continues through breaks of less than a month. For breaks of a month or longer, eligibility continues only if the student performs work in a work-study job during the break.

(c) The student of higher education is responsible for the care of a child in the filing group (see OAR 461-110-0370), and the child is:

(A) Under six years of age; or

(B) Six years of age or older, but under the age of 12 years, and adequate child care is not available to enable the student to both attend class and meet the employment requirements of subsection (a) of this section or the work-study requirements of subsection (b) of this section.

(d) The student of higher education is enrolled full time in higher education and is a single parent (meaning there is only one

parent in the filing group) or a single adult who has parental control, with the responsibility of caring for a child under 12 years of age.

(e) The student of higher education is in a TANF benefit group (see OAR 461-110-0750).

(f) The student of higher education is physically or mentally unfit for employment.

(g) The student of higher education is in job training classes under the Workforce Investment Act of 1998 (Pub. L. 105-220).

(h) The student of higher education is enrolled as a result of participation in the higher education component of the JOBS program.

(i) The student of higher education is enrolled as a result of employer-sponsored on-the-job training.

(j) The student of higher education is receiving Unemployment Compensation (UC).

(k) The student of higher education is participating in at least one of the following Employment Department training programs:

(A) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.

(B) The Training Unemployment Insurance (TUI) program.

(C) The Self-Employment Assistance (SEA) program.

(D) The Apprenticeship Program (APT).

(4) An individual's status as a student of higher education continues during school vacation and breaks. An individual's status as a student of higher education ends when the student of higher education does any of the following:

(a) Graduates.

(b) Drops out.

(c) Withdraws from the individual's classes.

(d) Reduces credit hours to less than half time.

(e) Is suspended or expelled.

(f) Does not intend to register for the next school term (excluding summer term).

(5) A student of higher education residing in a dormitory or other living situation with meal plans is ineligible for SNAP program benefits.

(6) The following situations do not earn the student of higher education hours toward the 20 hours per week requirement in section (3) of this rule:

(a) Income that is considered educational income under OAR 461-145-0150, including income from work in the following:

(A) An externship (see OAR 461-001-0015);

(B) A *graduate assistantship* (see OAR 461-001-0015);

(C) A *graduate fellowship* (see OAR 461-001-0015); or

(D) An internship (see OAR 461-001-0015).

(b) Receiving in-kind payments in lieu of actual wages.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816 & 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 3-2002(Temp), f. 2-26-02, cert. ef. 3-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 2-2010(Temp), f. & cert. ef. 2-5-10 thru 8-4-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 6-2010(Temp), f. & cert. ef. 4-1-10 thru 8-4-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 10-2013(Temp), f. & cert. ef. 5-1-13 thru 10-28-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0575

SNAP Expedited Services

In the SNAP program:

(1) An applicant is screened for expedited services except when a *filing group* (see OAR 461-110-0370) applies for SNAP benefits before the end of its current certification. If a *filing group* meets the expedited services criteria and the Department determines the *filing group* is eligible for SNAP benefits, the *filing group* qualifies to receive benefits within seven days following the filing date.

(2) The *filing group* meets expedited services criteria if the *filing group*:

(a) Has countable income less than \$150 a month and *liquid resources* that do not exceed \$100;

(b) Has gross income and *liquid resources* that total less than the total monthly rent, or mortgage, and utilities of the household; or

(c) Is a “destitute household” as described in 7 CFR 273.10(e)(3) (covering migrant and seasonal farmworker households) and has *liquid resources* that do not exceed \$100.

(d) For purposes of this rule only, a *liquid resource* includes cash on hand, a checking or savings account, a savings certificate, and a lump sum payment.

(3) There is no limit to the number of times a *benefit group* (see OAR 461-110-0750) may receive expedited services. However, all eligibility factors from the last expedited issuance must be verified or the *benefit group* must have been certified under normal processing standards since the last expedited certification before the client is eligible to receive expedited services again.

(4) An eligibility process interview for an expedited services client is conducted in accordance with OAR 461-115-0690.

(5) The application processing timeframe for an expedited services client is determined under OAR 461-115-0210.

(6) Application information for an expedited services client is verified as required under OAR 461-115-0690.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 5-2010, f. & cert. ef. 4-1-10

461-135-0580

Prepared Meals; SNAP

The following SNAP recipients and their spouses may use SNAP benefits to purchase meals prepared for them and delivered to them by a nonprofit meal-delivery service authorized by the United States Department of Agriculture:

(1) People age 60 or over.

(2) Housebound people.

(3) People who have physical or other disabilities which prevent them from adequately preparing their meals.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-135-0590

Communal Dining; SNAP

For SNAP, recipients age 60 or over and their spouses, and those receiving SSI and their spouses, may use SNAP benefits issued to them to purchase meals prepared especially for them at communal dining facilities authorized by the United States Department of Agriculture for that purpose.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99

461-135-0610

Meal Providers for Homeless Individuals; SNAP

Homeless SNAP recipients may use their SNAP benefits to purchase prepared meals from meal providers who are certified by the state and authorized by the United States Department of Agriculture to accept SNAP benefits from homeless individuals.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99

461-135-0700

Specific Requirements; GA, GAM

To be eligible for GA or GAM, a client must meet the following requirements:

(1) The client must be:

(a) An individual, childless or not living with his or her child, who is unmarried or married and not living with his or her spouse; or

(b) Married, living with his or her spouse, and childless or not living with his or her child, if:

(A) Both meet the GA impairment criteria found in OAR 461-125-0510;

(B) One meets the impairment criteria of the GA program and the spouse is receiving disability benefits provided for under title II or title XVI of the Social Security Act;

(C) One meets the impairment criteria of the GA program and the spouse is deemed to be receiving disability benefits provided for under title II or title XVI of the Social Security Act; or

(D) One meets the impairment criteria for the GA program, the spouse is awaiting a disability determination under title II of the Social Security Act, and the Department has determined the spouse meets the disability criteria of the Social Security Administration.

(2) The client must not be eligible for OSIP, OSIPM, except for clients found eligible under OAR 461-125-0370(1)(c), REF, or TANF.

(3) Requirements regarding eligibility for disability benefits under Title II of the Social Security Act:

(a) A client described in section (1)(a) of this rule must have filed an application for disability benefits under the Social Security Act and must not meet the non-disability eligibility requirements under Title II of the Social Security Act.

(b) In the case of a couple described in section (1)(b) of this rule, the person or persons required by section (1)(b) to meet the GA impairment criteria must meet the requirements of subsection (a) of this section.

(c) The client must present evidence of having made the application for disability benefits under the Social Security Act required by this section.

(d) The “VERSA” screen maintained by the Department, or a printed copy of the screen, is prima facie evidence of the information provided on the screen.

(4) The client must:

(a) Complete the application process for Supplemental Security Income (SSI); cooperate with the Department in applying to the Social Security Administration for SSI; appeal all denials of SSI made below the Administrative Law Judge level; and attend all appointments designated by the Department relating to obtaining SSI.

(b) Sign an interim assistance agreement authorizing the Department to recover interim GA benefits paid to the client (or paid to providers on the client’s behalf) from the initial SSI payment or initial post-eligibility payment. The following provisions are considered part of the interim assistance agreement:

(A) Interim GA benefits include only those GA cash benefits paid during the period of time that the SSI benefit covers.

(B) For any month in which SSI is prorated, the Department can recover only a prorated amount of the interim GA cash benefit.

(C) If the Department cannot stop delivery of a GA benefit issued after the SSI payment is made, the GA payment will be included in the interim assistance to be reimbursed to the Department.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 4-1997(Temp), f. 4-30-97, cert. ef. 5-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 11-2004(Temp), f. & cert. ef. 4-15-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04

461-135-0701

Terminate GA and GAM Programs October 1, 2005

(1) Effective October 1, 2005, the General Assistance (GA) and General Assistance Medical (GAM) programs are not funded. Notwithstanding any other rule of the Department, these programs are closed effective October 1, 2005.

(2) Effective September 30, 2005, all persons eligible for or receiving benefits of the GA or GAM programs become ineligible for these programs. Except as provided in section (4) of this rule, the Department will not authorize or provide any benefit under the GA or GAM programs after September 30, 2005.

(3) Effective October 1, 2005, all GA recipients who receive medical assistance through the OSIPM program will continue to receive OHP Plus benefits through the OSIPM program.

(4) Effective October 1, 2005, all recipients of medical assistance through the GAM program who became ineligible for GAM on September 30, 2005 because of the closure of the GAM program may receive OHP benefits as follows:

(a) Clients who have been determined to meet the eligibility requirements of the OSIPM program (see OAR 461-125-0370 and the OSIPM eligibility requirements in OAR 461 division 135) will receive the OHP Plus benefits package (see OAR 410-120-1210(2)(a)).

(b) Clients may also receive the OHP Plus benefits package for the period that:

(A) The Department has not previously made a determination about whether the client meets the disability requirements for OSIPM under OAR 461-125-0370 and the OSIPM eligibility requirements in OAR 461 division 135; and

(B) A determination is still pending about whether the client meets the disability requirements for OSIPM under OAR 461-125-0370 and the OSIPM eligibility requirements in OAR 461 Division 135.

(c) Clients who do not qualify for the OHP Plus benefits may be eligible for the OHP-OPU program under the eligibility requirements set out in OAR 461 Division 135, and if eligible, will receive the OHP Standard benefits package (see OAR 410-120-1210(2)(b)).

Stat. Auth.: ORS 409.050 & 411.060

Stats. Implemented: ORS 411.010, 411.060, 411.710, 411.730 & 411.740

Hist.: AFS 21-2002(Temp), f. & cert. ef. 12-30-02 thru 6-27-03; SSP 12-2003, f. 5-29-03, cert. ef. 6-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2005(Temp), f. & cert. ef. 8-29-05 thru 2-25-06; SSP 12-2005(Temp), f. & cert. ef. 9-20-05 thru 2-25-06; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06

461-135-0705

Specific Requirements; GA, GAM Ineligible

(1) The following are ineligible for GA and GAM:

(a) A resident of a public institution or private psychiatric hospital.

(b) A person held for a proceeding in connection with his or her commitment to a public institution or private psychiatric hospital.

(2) A GA client found by the Social Security Administration (SSA) not to meet SSI disability criteria may continue receiving GA while appealing the SSA finding until a decision is rendered by an Administrative Law Judge (ALJ) for the Social Security Administration's Office of Hearings and Appeals. A client who unsuccessfully appeals to the ALJ is no longer eligible for GA.

(3) A client whose impairment no longer meets the criteria in OAR 461-125-0510 is ineligible for benefits.

(4) The decision by the ALJ is binding on the Department unless the client has a new or significantly worsened impairment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04

461-135-0708

Criteria for Developing a Plan for Self-support; GA, GAM, OSIP, OSIPM and QMB

(1) A client and the Department may develop a plan for self-support in the GA, GAM, OSIP, OSIPM, and QMB programs for a client who:

- (a) Meets the applicable disability or impairment criteria; and
- (b) Is not eligible for SSI.

(2) A plan for self-support allows a client to retain a portion of his or her nonexcluded assets for a specific period of time to meet a specific occupational goal. The plan may provide for specialized or advanced education or training for clients with a severe disability.

(3) To be approved, a plan for self-support must meet all of the following criteria:

(a) The plan must be in writing and approved by the Department.

(b) The plan must identify a realistic occupational goal, considering the client's physical limitations and capabilities.

(c) The goal of the plan must be to provide the client with income necessary to meet his or her needs, not just for improving potential earning capability or increasing self-sufficiency within the home.

(d) Resources designated to support the plan must be kept in a separate bank account with a specific savings or planned disbursement goal for using the resources. Previously commingled funds must be put in a separate bank account in order for them to be considered designated for the plan.

(e) The duration of the plan must be limited to the time necessary to complete the plan but cannot exceed thirty-six months plus an additional 12 months if necessary for completion of education or training.

(4) A client must do all of the following to comply with a plan for self-support:

(a) Report any changes in circumstances that require a change to the current plan.

(b) Follow through with the plan without any break in excess of the longer of:

(A) Normal vacations from school or training.

(B) Three months, unless the reasons are beyond his or her control.

(5) If a client fails to comply with the requirements of section (4) of this rule, program eligibility is redetermined without the resource exclusions allowed by OAR 461-145-0405.

(6) The client and the Department may revise a plan for self-support or may agree to a new plan. To be new, the plan must not have any relationship to the old plan. When a plan is revised or a new plan established:

(a) Resources designated to support the old plan may become a part of the revised or new plan.

(b) If changes are made in the amount of resources to support the plan, eligibility and the payment amount for program benefits are redetermined.

(c) If the duration of the revised plan in addition to the months the old plan was in effect exceeds the time limits in subsection (3)(e) of this rule, approval is limited to the remainder of the maximum period only.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2002, f. & cert. ef. 7-1-02; Renumbered from 461-140-0440, SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-135-0725

Specific Requirements; OSIP-EPD, OSIPM-EPD

(1) To be eligible for the OSIP-EPD and OSIPM-EPD programs, an individual must:

(a) Have a disability, as defined in OAR 461-125-0370(2);

(b) Have adjusted income below the limit provided in OAR 461-155-0250(6);

(c) Have employment as defined in OAR 461-001-0035. Once found eligible, a client remains eligible under this subsection for the OSIP-EPD or OSIPM-EPD program while not working if the

employer treats the client as an employee, such as when the client is absent from the job under the provisions of the Family Medical Leave Act; and

(d) Not be assumed eligible for OSIPM, as defined in OAR 461-135-0010(6).

(2) If an OSIP-EPD or OSIPM-EPD client becomes unemployed and meets all financial and non-financial eligibility requirements for another OSIP or OSIPM sub-program except for resources, the client may retain eligibility for OSIP-EPD or OSIPM-EPD for up to 12 months in order to spend down to the OSIP or OSIPM resource limit. The 12-month period begins the first of the month following the loss of employment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08

461-135-0726

Specific Requirements; OSIP-IC and OSIPM-IC

To be eligible for OSIP-IC or OSIPM-IC, a person must meet criteria for In-Home Services and the Independent Choices program contained in OAR chapter 411, division 030.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-135-0730

Specific Requirements; QMB, SMB, SMF

(1) The following requirements apply to QMB-BAS:

(a) To qualify for QMB-BAS, an individual must be receiving Medicare hospital insurance under Part A. This includes an individual who must pay a monthly premium to receive coverage.

(b) A client who qualifies for QMB-BAS is not eligible to receive the full range of the Department's medical services. QMB-BAS benefits are limited to payments toward Medicare cost-sharing expenses. These expenses are:

(A) Medicare Part A and Part B premiums; and

(B) Medicare Part A and Part B deductibles and coinsurance up to the Department's fee schedule.

(2) The following requirements apply to QMB DW:

(a) To qualify for the QMB-DW program, an individual must be eligible for Part A of Medicare as a qualified worker with a disability under Section 1818A of the Social Security Act (42 USC 1395i-2a). This is an individual under age 65 who has lost eligibility for Social Security disability benefits because the individual has become substantially gainfully employed, but can continue to receive Part A of Medicare by paying a premium.

(b) A QMB-DW client is eligible only for payment of premiums for Part A of Medicare. If the client is eligible for any other medical assistance program the client is not eligible for QMB-DW.

(3) The following requirements apply to QMB SMB:

(a) To qualify for QMB SMB, an individual must be receiving Medicare hospital insurance under Part A. This includes an individual who must pay a monthly premium to receive coverage.

(b) A client who qualifies for QMB SMB is not eligible to receive the full range of the Department's medical services. QMB SMB benefits are limited to payment of Medicare Part B premiums.

(4) The following requirements apply to QMB-SMF:

(a) To qualify for QMB-SMF, an individual must be receiving Medicare hospital insurance under Part A. This includes an individual who must pay a monthly premium to receive coverage.

(b) A client who is institutionalized (residing in a nursing facility, an intermediate care facility for the mentally retarded (ICF/MR), or a hospital) is not eligible for QMB-SMF.

(c) A client who qualifies for QMB-SMF is not eligible to receive the full range of the Department's medical services. QMB-

SMF benefits are limited to payment for Medicare Part B premiums.

(d) The QMB-SMF program is subject to an enrollment cap based on the federal allocation. If the enrollment in this program exceeds the federal allocation, the program may be closed.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 9-2004(Temp), f. & cert. ef. 4-1-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 3-2006(Temp), f. & cert. ef. 2-6-06 thru 6-30-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 15-2008(Temp), f. & cert. ef. 7-1-08 thru 12-28-08; SSP 19-2008(Temp), f. & cert. ef. 8-8-08 thru 12-28-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2010, f. & cert. ef. 4-1-10

461-135-0745

Eligibility for Individuals in Acute Care Settings; OSIPM

An individual in an acute care hospital or nursing facility is eligible for the OSIPM program if the individual:

(1) Meets all eligibility requirements for OSIPM except that income is above the program standards;

(2) Has income at or below 300 percent of the full SSI standard or has established a qualifying trust as specified in OAR 461-145-0540; and

(3) Requires a continuous period of care (see OAR 461-001-0030).

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09

461-135-0750

Eligibility for Individuals in Long-Term Care or Home and Community-Based Care; OSIPM

An individual who meets the requirements of all of the following sections is eligible for OSIPM:

(1) Meets the eligibility requirements for the OSIPM program except that income is above the OSIPM adjusted income standard for a one person need group (see OAR 461-155-0250(3)).

(2) Has countable income at or below 300 percent of the full SSI standard for a single individual; has established a qualifying trust as specified in OAR 461-145-0540(9)(c); or is eligible for the OSIPM-EPD program.

(3) Meets one of the following eligibility standards:

(a) The criteria in OAR 411-015-0100 (except subsection (1)(b)) regarding eligibility for nursing facility care or home and community-based care (see 461-001-0030).

(b) The level-of-need criteria for an ICF/MR.

(c) The service eligibility standards for medically fragile children in OAR 411-350-0010.

(d) The service eligibility standards for the CIIS (Children's Intensive In-Home Services) behavioral program in OAR 411-300-0100 to 411-300-0220.

(e) The service eligibility standards for the Medically Involved Children's Waiver in chapter 411, division 355 of the Oregon Administrative Rules.

(4) Resides in or will reside in one of the following locations for a continuous period of care (see OAR 461-001-0030) and is applying for or receiving long-term care services authorized by the Department (eligibility for OSIPM is not effective prior to the effective date for long-term care under OAR 461-180-0040):

(a) A Medicaid-certified nursing facility.

(b) An intermediate care facility for the mentally retarded (ICF/MR).

(c) A home and community-based care setting.

(5) An individual in a home and community-based care setting must receive Title 1915(c) waived services.

Stat. Auth.: ORS 411.060, 411.070, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-

27-99, cert. ef. 5-1-99; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 10-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2014, f. & cert. ef. 4-1-14

461-135-0771

Eligibility for OSIPM Under “Grandfathering” Provision

(1) A person is eligible for OSIPM if the person was eligible for SSI in January 1974.

(2) A person is eligible for OSIPM if the person is the essential spouse of a person eligible for OSIPM under section (1) of this rule. An essential spouse is one who lives in the same household and provides a service that otherwise would have to be provided by some other means.

(3) A person eligible for OSIPM under this rule is considered eligible continuously since January 1974.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01

461-135-0780

Eligibility for Pickle Amendment Clients; OSIPM

(1) An individual is eligible for OSIPM under this rule and the so-called Pickle amendment (Pub. L. No. 94 566, § 503, title V, 90 Stat. 2685 (1976)), if the individual meets all other eligibility requirements, and:

(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 (see OAR 461-001-0000) Social Security income, for the purposes of the Pickle Amendment. If the amount cannot be determined using the information provided by the SSA, it is calculated in accordance with sections (3) and (5) of this rule.

(3) Determine the month in which the individual was entitled to Social Security and received SSI in the same month. Use the table in section (5) of this rule to find the percentage that applies to that month. Multiply the present amount of the individual’s Social Security benefits by the applicable percentage. This amount, rounded down to the next lower whole dollar, is the individual’s countable Social Security for purposes of this rule and the Pickle Amendment.

(4) Add the amount determined in accordance with section (2) or (3) of this rule to any other countable unearned income plus adjusted earned income of the individual, and if the total is less than the full SSI income standard for a single individual plus the \$20 unearned income deduction (OAR 461-160-0550), the individual is eligible for OSIPM for purposes of this rule and the Pickle amendment.

(a) For spouses in the same financial group (see OAR 461-110-0530), determine the spouse’s SSB amount in the year the individual stopped receiving SSI or perform the above calculation for the spouse’s Social Security benefit using the same multiplier, regardless of whether or not the spouse (see 461-001-0000) received SSI, combine the results and add the subtotal to all other countable unearned and adjusted earned income.

(b) If the total is less than the full SSI standard for a couple plus the \$20 unearned income deduction (OAR 461-160-0550), the couple is eligible for OSIPM for purposes of this rule and the Pickle amendment. All other financial and non-financial eligibility criteria must be met.

(5) The following guide contains the calculations used to determine the SSB for prior years (use this table only if you cannot

determine the prior year’s amount using information provided by

SSA): [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060, 411.070, 411.083 & 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404 & 411.704

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30, f. 12-31-90, cert. ef.

1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92,

cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-

29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-

1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98;

AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-

01; SSP 14-2003(Temp), f. & cert. ef. 6-18-03 thru 9-30-03; SSP 23-2003, f. &

cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. &

cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. &

cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-

29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008,

f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 41-2010, f.

12-30-10, cert. ef. 1-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-

2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert.

ef. 4-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 4-2015, f. & cert. ef.

1-1-15

461-135-0790

Eligibility for People in an Institution Since 1973; OSIPM

A client living in an institution is eligible for OSIPM even if his or her income exceeds 300 percent of the full SSI payment standard for a person living alone if:

(1) The client has continuously met the SSI eligibility criteria

used in December 1973 for a person living in an institution; and

(2) The client needs institutional care.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 15-1999, f. 11-30-99,

cert. ef. 12-1-99

461-135-0800

Eligibility for 1972 COLA Clients; OSIPM

A client is eligible for OSIPM if he or she meets all eligibility requirements except that his or her income exceeds the income limit because of an SSB cost-of-living increase in July 1972, and if:

(1) The client was entitled to receive SSB in August 1972 and received benefits under OSIPM or a state program for the aged, blind or disabled, or were eligible for such a program; or

(2) The client would have been eligible for SSB if he or she had not resided in a medical facility.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99

461-135-0820

Eligibility for Widows and Widowers; OSIPM

A client is eligible for OSIPM if he or she is not entitled to Medicare Part A and became ineligible for SSI because of a mandatory application for, and receipt of, widow's or widower's Social Security disability benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01

461-135-0830

Eligibility for Disabled Adult Children; OSIPM

A client is eligible for OSIPM as a Disabled Adult Child if the client meets all of the following requirements:

(1) The client is age 18 or older.

(2) The client became blind or a person with a disability as defined by SSA before reaching the age of 22.

(3) The client lost SSI benefits on or after July 1, 1987 because the client became eligible for Social Security benefits as a result of a parent's retirement, death, or disability, or because of an increase in such benefits.

(4) The client would continue to be eligible for SSI in the absence of the Social Security disabled adult child benefit or increases to that benefit.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-135-0832

Estate Administration; Definitions

Effective July 18, 1995, for purposes of these rules (OAR 461-135-0832 to 461-135-0847) and ORS 93.268, 410.075, 411.620, 411.630, 411.694, 411.708, 411.795, 416.310, 416.340, and 416.350 the terms listed below have the meanings ascribed to them herein; provided, however, as used in these rules, any term has the same meaning as when used in a comparable context in the laws of the United States in effect on June 1, 1996, relating to the recovery of medical assistance paid by a state pursuant to 42 USC 1396 et. seq. relating to Grants to States for Medical Assistance Programs, unless a different meaning is clearly required or the term is specifically defined herein. The Department applies the definitions and procedures set forth in these rules to recoveries and claims made pursuant to ORS 411.708, 411.795, 416.310, 416.340, and 416.350.

(1) "Assets" means all income and resources of an individual, including any income or resources that an individual is entitled to at the time of death, including any income or resources to which the individual is entitled, but does not receive, because of action: by the individual; the individual's spouse (see OAR 461-001-0000); by a person, including a court or administrative body with legal authority to act in place of or on behalf of the individual; or by any person, including any court or administrative body, acting at the direction or upon the request of the individual.

(2) "Assign" means a person who acquires an interest in real or personal property or an asset pursuant to a written or oral assignment of such real or personal property or asset from a person with the legal right to assign it.

(3) "Assistance" means general assistance and public assistance as defined in ORS 411.010 and medical assistance as defined in ORS 414.025.

(4) "Bona fide purchaser for value" means any person who provides consideration, including money or property, to a seller or transferor of real property or personal property equal to the fair market value of the real or personal property sold or transferred.

(5) "Child under age 21" means the deceased recipient's natural or adopted son or daughter who is under 21 years of age throughout the time the Department seeks to enforce its claim.

(6) "Child with a disability" means the deceased recipient's natural or adopted son or daughter of any age, who meets SSI disability criteria throughout the time the Department seeks to enforce its claim, and who presents evidence to the Department substantiating the disability within two years after the Department initially asserts its claim.

(7) "Child with a visual impairment" means the deceased recipient's natural or adopted son or daughter, of any age, who, within two years after the Department initially asserts its claim, substantiates blindness throughout the time the Department seeks to enforce its claim by presenting evidence of:

(a) Vision of 20/200 or less in the better eye with a corrective lens;

(b) A limitation in vision field to an angle of 20 degrees or less; or

(c) Meeting any other SSI criteria for blindness.

(8) "Consideration furnished test" means the method by which the ownership of real or personal property is traced to its economic origin. The fractional share of the property considered owned by a co-owner shall be that fractional share to have originally belonged to or to be attributable to the monetary consideration furnished by the co-owner. The fractional share is based on the proportion the original ownership share or monetary consideration bore to the acquisition cost and, if applicable, capital additions for the property. The fractional share is not based on the dollar amount of contribution compared to the current market value of the property. For example, if one co-owner contributed \$2,500 and the other \$7,500 to the purchase price of a \$10,000 property in 1960; in 1995, the property is appraised at \$50,000. The co-owner who contributed \$2,500 is considered to own 25% of the property in 1995.

(9) "Convincing evidence" includes, but is not limited to:

(a) Recorded documents of title.

(b) Unrecorded documents of title executed contemporaneously with the transaction or transfer at issue.

(c) Tax statements or returns.

(d) Records of banking, financial or other similar institutions.

(e) Written receipts, bills of sale or other writings or documents executed contemporaneously with the transaction or transfer at issue.

(f) Such other reliable, probative evidence, including oral, of a similar nature and authenticity that accurately reflects the true facts of the transaction or transfer at issue.

(10) "Date of request" means the date an individual or someone authorized on behalf of the individual contacts the Department or uses another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. It starts the application process.

(11) "Department" means the Department of Human Services, the Oregon Health Authority, or both.

(12) "Domestic partner" means an individual joined in a domestic partnership as defined in ORS 106.310.

(13) "Estate" means with respect to the collection of payments made for assistance provided prior to July 18, 1995:

(a) For recipients who die prior to October 1, 2008, all real property, personal property, or other assets, wherever located, in which a recipient had any legal title or ownership or beneficial interest at the time of death, including real property, personal prop-

erty, or other assets conveyed by the recipient to, subsequently acquired by, or traceable to, a person, including the recipient's spouse and any successor-in-interest to the recipient's spouse, through:

- (A) Tenancy by the entirety;
- (B) Joint tenancy;
- (C) Tenancy in common;
- (D) Not as tenants in common, but with the right of survivorship;
- (E) Life estate;
- (F) Transfer on death deed;
- (G) Living trust;
- (H) Annuity purchased on or after April 1, 2001; or
- (I) Other similar arrangement.

(b) For recipients who die on or after October 1, 2008, all real property, personal property, or other assets, wherever located, in which a recipient had any legal title or ownership or beneficial interest at the time of death of the recipient, including real property, personal property, or other assets conveyed by the recipient to, subsequently acquired by, or traceable to, a person, including the recipient's spouse and any successor-in-interest to the recipient's spouse, through:

- (A) Tenancy by the entirety;
- (B) Joint tenancy;
- (C) Tenancy in common;
- (D) Not as tenants in common, but with the right of survivorship;
- (E) Life estate;
- (F) Transfer on death deed;
- (G) Living trust;
- (H) Annuity purchased on or after April 1, 2001; or
- (I) Other similar arrangement, includes, but is not limited to,

an interspousal transfer of assets, including one facilitated by a court order, which occurred no earlier than 60 months prior to the first date of request established from the recipient's and the recipient's spouse's applications, or at any time thereafter, whether approved, withdrawn, or denied, for the medical assistance program.

(14) "General Assistance" means "general assistance" as defined in ORS 411.010.

(15) "Heir" means any individual, including the surviving spouse, who is entitled under intestate succession to the real property, personal property, and assets of a decedent who died wholly or partially intestate.

(16) "Interest" means any form of legal, beneficial, equitable or ownership interest.

(17) "Interspousal transfer" means any transfer, or chain of transfers, that effectively transfers title or control of an asset, or an interest in an asset, from one spouse to another, including: direct transfers between spouses, transfers from one or both spouses to a trust, and transfers from one trust to another trust.

(18) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will, effectively disposing of all of a decedent's estate.

(19) "Intestate succession" means succession to real property, personal property or assets of a decedent who dies intestate or partially intestate.

(20) "Joint tenancy" means ownership of property held under circumstances that entitle one or more owners to the whole of the property on the death of the other owner(s), including, but not limited to, joint tenants with right of survivorship and tenants by the entirety.

(21) "Legal title" means legal ownership by a person.

(22) "Life estate" means an interest in real or personal property that terminates upon the death of a measuring life.

(23) "Living trust" means a revocable or irrevocable inter vivos trust funded with assets to which the recipient is legally entitled.

(24) "Medical Assistance" (MA) is defined in ORS 414.025 and incorporated by this reference.

(25) "Medical institution" means a facility that provides care and services equivalent to those received in a nursing facility. "Medical institution" does not apply to home and community-based care (see OAR 461-001-0030), in-home services, adult foster home (AFH) care, residential care facility (RCF) services, or assisted living facility (ALF) care.

(26) "Medicare cost sharing" means medical assistance funds used to pay Medicare premiums, coinsurance, copayments and deductibles.

(27) "Ownership documents" mean any applicable documents, certificates or written evidence of title or ownership such as, but not limited to, recorded deeds, stock certificates, certificates of title, bills of sale, or other similar documents evidencing ownership or legal title held by a person.

(28) "Permanently institutionalized" means an individual, regardless of age, who, at the time of his or her death, had resided in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, for 180 days or more.

(29) "Person" means any individual, corporation, association, firm, partnership, trust, estate or other form of entity.

(30) "Personal property" means all tangible and intangible personal property wherever located, including, but not limited to, chattels and movables, boats, vehicles, furniture, personal effects, livestock, tools, farming implements, cash, currency, negotiable papers, securities, contracts, and contract rights.

(31) "Probate estate" means all real property, personal property, or other assets included in a decedent's estate as it is defined by applicable state probate law.

(32) "Real property" means all land wherever situated, including improvements and fixtures thereon, and every estate, interest, and right, whether legal or equitable, therein including, but not limited to, fee simple, terms for years, life estates, leasehold interests, condominiums or time share properties. "Real property" includes property conveyed by the individual to, subsequently acquired by, or traceable to, a person, including the individual's surviving spouse and any successor-in-interest to the individual's surviving spouse, if the "real property" may be included in the individual's, or the individual's surviving spouse's, estate, as defined in this rule.

(33) "Recipient of property" means:

(a) Any survivor, heir, assign, devisee under a will, beneficiary of a trust, transferee or other person to whom real property, personal property or other assets pass upon the death of the decedent either by law, intestate succession, contract, will, trust instrument or otherwise; and

(b) Any subsequent transferee of such real property, personal property, or asset, or proceeds from the sale thereof, through any form of conveyance, that is not a bona fide purchaser for value.

(34) "Survivor" means any person who, as a co-tenant, is automatically entitled to an expanded share of real or personal property upon the death of a fellow co-tenant.

(35) "Survivorship" means an interest in real or personal property that expires upon the death of an individual whereby the interest of the individual's co-owners automatically expands to the same extent without necessity for any act of transfer or distribution.

(36) "Tenancy in common" means ownership of real or personal property by an individual together with one or more other persons which ownership interest shall not pass by survivorship upon the death of the individual.

(37) "Time of death" means the instant of death, the time and date of which shall be established in the place of the decedent's residence; in no case shall time of death be construed to mean a time after which an interest in real or personal property or other assets may:

(a) Pass by survivorship or other operation of law due to the death of the decedent; or

(b) Terminate by reason of the decedent's death.

(38) "Transfer on death deed" has the meaning set out in ORS 93.949.

(39) “Value” means the fair market value. Fair market value is the price at which real or personal property would change hands between a willing buyer and a willing seller. In the event the real or personal property was not reported to the Department by the deceased Medicaid recipient, the “value” would be established based on its fair market value at the time of discovery.

Stat. Auth: ORS 93.268, 410.070, 410.075, 411.060, 411.070, 416.340, 416.350
Stats. Implemented: ORS 93.268, 410.070, 410.075, 411.010, 411.060, 411.694, 411.708, 411.795, 416.310, 416.340, 416.350, 2011 OL 212 sec. 2, 2011 OL 720 sec. 224

Hist.: AFS 29-1996, f. & cert. ef. 8-28-96; AFS 30-2000, f. & cert. ef. 12-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 16-2008, f. 7-1-08, cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14

461-135-0833

Burial Expenses

(1) The Department of Human Services has determined that a plain and decent funeral and disposition of the remains of a decedent can be arranged for an average cost of \$3,500. This cost includes all professional services and merchandise. Preparation of the remains will be done in accord with applicable laws and regulations.

(2) For individuals dying on or after April 1, 2008, where the Department of Human Services is a claimant in their estate and where there would be insufficient assets remaining after any funeral costs to satisfy the Department’s claim in full, not more than \$3,500 in estate assets, less any prearranged funeral trust, funds set aside for burial, life insurance policies specifically identified to pay for funeral expenses, or burial insurance, may be expended for funeral expenses and disposition of the remains of the decedent.

(3) In instances where a pre-paid funeral plan is sought to be changed for a Medicaid client after their death, and pre-paid funeral funds are refunded, it is the responsibility of the funeral home and the recipient(s) of the funds to inform, in writing, the Department of Human Services, Estate Administration Unit, PO Box 14021, Salem, OR 97309-5024, of any refund within 30 days of such action. Any monies refunded after the client has died are an estate asset and subject to the claims of creditors.

(4) The following items are not considered professional services or merchandise and will not be allowable in meeting the plain and decent funeral standard: Transportation of the remains beyond the state of Oregon; and donations to charities in the decedent’s name. The aforementioned costs are not all-inclusive and other similar charges may be denied.

Stat. Auth: ORS 410.070, 411.060, 411.070, 414.106

Stats. Implemented: ORS 411.620, 411.630, 411.708, 411.795, 414.105, 416.310, 416.340

Hist.: AFS 43-1983(Temp), f. & ef. 7-1-85; AFS 78-1985, f. & ef. 12-9-85; AFS 25-1994, f. & cert. ef. 11-1-94; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; Renumbered from 461-006-0452, SSP 8-2008, f. & cert. ef. 4-1-08

461-135-0834

Delivery of Required Notices to the Estate Administration Unit

(1) A person required by ORS 93.268, 113.145, 114.525, or 130.370 to send notice to the Department of Human Services must send or deliver the notice to the Estate Administration Unit, Office of Payment Accuracy and Recovery, Department of Human Services.

(2) If a claim submitted by the Estate Administration Unit is disallowed, the notice of the disallowance, required by ORS 114.540, 115.135, or 130.400, shall be mailed to the Estate Administration Unit, unless the claim directs that the notice of disallowance be mailed to a person or entity other than the Estate Administration Unit.

(3) The mailing address for the Estate Administration Unit is:

Estate Administration Unit

PO Box 14021

Salem OR 97309-5024

Stat Auth: ORS 410.070

Stats. Implemented: ORS 113.145, 114.525 & 130.370

Hist.: AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2015, f. 3-30-15, cert. ef. 4-1-15

461-135-0835

Limits on Estate Claims

(1) The Estate Administration Unit is designated and authorized to administer the estate recovery program for the Oregon Health Authority and the Department of Human Services, and to present and file claims for payment. This rule sets out some of these claims.

(2) For the OSIP program (see OAR 461-101-0010):

(a) The amount of any payments or benefits, including overpayments (see OAR 461-195-0501), are a claim against the probate estate (see 461-135-0832) of any deceased recipient.

(b) The claim for correctly paid payments or benefits under OSIP are deferred until the death of the spouse (see OAR 461-001-0000) or domestic partner (see 461-135-0832), if any, of the deceased recipient.

(c) If the deceased recipient has no probate estate, the enforcement of the claim has been deferred, or there are insufficient resources in the probate estate to pay the claim in full, the probate estate of the spouse or domestic partner of the deceased recipient, if any, is charged for any payments or benefits paid under OSIP to the deceased recipient, the spouse, or domestic partner.

(d) The claim for correctly paid payments or benefits under OSIP may not be enforced if the deceased recipient is survived by a child under age 21 (see OAR 461-135-0832), a child with a disability (see 461-135-0832), or a child with a visual impairment (see 461-135-0832); and the child survives to the closing of the probate estate.

(e) Transfers of real or personal property without adequate consideration, by recipients of payments or benefits under OSIP, are voidable and may be set aside under ORS 411.620.

(f) Except when there is a surviving spouse or domestic partner, or a surviving child under age 21, a child with a disability, or a child with a visual impairment, the amount of any payments or benefits provided is a claim against the estate (see OAR 461-135-0832) in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

(3) For General Assistance (see OAR 461-135-0832):

(a) The amounts of any payments or benefits, including overpayments, are a claim against the probate estate of any deceased recipient. The amount includes the state’s monthly contribution, paid prior to January 1, 2014, to the federal government for the recipient’s Medicare Part D prescription drug coverage.

(b) The claim for correctly paid payments or benefits under the General Assistance program is deferred until the death of the spouse or domestic partner, if any, of the deceased recipient.

(c) If the deceased recipient has no probate estate, the enforcement of the claim has been deferred, or there are insufficient resources in the probate estate to pay the claim in full, then the probate estate of the spouse or domestic partner of the deceased recipient, if any, is charged for any payments or benefits to the deceased recipient, the spouse, or domestic partner.

(d) The claim for correctly paid payments or benefits under the OSIP program may not be enforced if the deceased recipient is survived by a child under age 21, a child with a disability, or a child with a visual impairment; and the child survives to the closing of the probate estate.

(e) Except when there is a surviving spouse or domestic partner, or a surviving child under age 21, a child with a disability, or child with a visual impairment, the amount of any assistance paid is a claim against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

(4) For Medical Assistance (MA, as defined in OAR 461-135-0832):

(a) In determining the extent of the estate resources subject to the claim of the Department for correctly paid benefits, except as

provided in subsection (b) of this section, the Department must disregard resources in an amount equal to the value (see OAR 461-135-0832) of resources excluded in the most recent eligibility determination under 461-160-0855, based on payments received under a qualified partnership policy (see 461-001-0000). The disregard of resources specific to the estate recovery claim applies to MA benefits received after the effective date of the MA eligibility determination in which a qualified partnership policy was considered and approved. The amount of any MA incurred in a prior MA eligibility period where qualified partnership policy benefits were not considered is not subject to the estate resource disregard.

(b) There is no disregard of resources under subsection (a) of this section if the recipient, or the spouse of the recipient, at any time transferred the value of the qualified partnership policy excluded resource amount to another individual for less than fair market value prior to the death of the recipient or the recipient's spouse, or exhausted the disregarded resource amount by purchasing things of value to the recipient or the recipient's spouse while either was living.

(c) The amount of any incorrectly paid payments or benefits, excluding an administrative error overpayment (see OAR 461-195-0501), are a claim, against the probate estate of any deceased recipient.

(d) The claim for correctly paid payments or benefits under MA is deferred until the death of the surviving spouse, if any, of the deceased recipient. After the death of a surviving spouse, the deferred claim of the deceased recipient is a claim against the following assets (see OAR 461-135-0832) or their proceeds in the probate estate of the spouse.

(A) For a recipient who died prior to October 1, 2008, the Department has a claim against the probate estate of the spouse for medical assistance (see OAR 461-135-0832) paid to the recipient, but only to the extent that the spouse received property or other assets from the recipient through any of the following:

- (i) Probate.
- (ii) Operation of law.

(B) For a recipient who dies on or after October 1, 2008, the Department has a claim against the probate estate of the recipient's spouse for medical assistance paid to the recipient, but only to the extent that the recipient's spouse received property or other assets from the recipient through any of the following:

- (i) Probate.
- (ii) Operation of law.
- (iii) An interspousal transfer (see OAR 461-135-0832), including one facilitated by a court order, which occurs:

(I) Before, on, or after October 1, 2008; and

(II) No earlier than 60 months prior to the first date of request (see OAR 461-135-0832) established from the applications for MA of the recipient and the recipient's spouse, or at any time thereafter, whether approved, withdrawn, or denied.

(e) The claim for correctly paid payments or benefits under MA may not be enforced if the deceased recipient is survived by a child under age 21, a child with a disability, or a child with a visual impairment.

(f) For recipients who are not permanently institutionalized (see OAR 461-135-0832):

(A) The amount of any payments or benefits paid prior to October 1, 1993 to or on behalf of a recipient 65 years of age or older are a claim against the probate estate of any deceased recipient.

(B) The amount of any payments or benefits, paid on or after October 1, 1993 and prior to July 18, 1995, to or on behalf of a recipient 55 years of age or older are a claim against the estate of any deceased recipient.

(C) The amount of any payments or benefits, paid on or after July 18, 1995 and prior to October 1, 2013, to or on behalf of a recipient 55 years of age or older are a claim against the estate of any deceased recipient. All correctly made payments on or after January 1, 2010 for Medicare cost sharing (see OAR 461-135-0832) are excluded from a claim.

(D) The amount of any payments or benefits, paid October 1, 2013 or later, to or on behalf of a recipient 55 years of age or older, during the time the Department was paying any of the cost of care of the individual in a nursing facility, home and community based care (see OAR 461-001-0030), or in home services through the State Plan Personal Care Services (see OAR 411-034-0010), are a claim against the estate of any deceased recipient. All correctly made payments on or after January 1, 2010 for Medicare cost sharing are excluded from a claim.

(g) For permanently institutionalized individuals, a claim includes amounts calculated according to subsection (f) of this section and the following:

(A) The amount of any payments or benefits before July 18, 1995 to or on behalf of a recipient who was permanently institutionalized is a claim against the probate estate of the deceased recipient.

(B) The amount of any payments or benefits paid between July 19, 1995 through September 30, 2013 to or on behalf of a recipient who was permanently institutionalized is a claim against the estate of the deceased recipient.

(C) The amount of any payment for services provided in a nursing facility, an intermediate care facility for an individual with intellectual or developmental disabilities, a psychiatric institution, or other medical institution (see OAR 461-135-0832) paid after September 30, 2013 to or on behalf of a recipient who was permanently institutionalized is a claim against the estate of the deceased recipient.

(5) The amount paid after December 31, 2013, to the federal government for the recipient's Medicare Part D prescription drug coverage is a claim against the estate of the deceased recipient.

(6) For trusts that comply with OAR 461-145-0540(9) and (10), the maximum distribution to the Department is the total of all MA payments or benefits paid to or on behalf of the deceased recipient. Subsections (4)(d) and (4)(e) of this rule do not apply to this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 413.042, 416.340, 416.350, 2013 OL 14 Sec. 10
 Stats. Implemented: ORS 93.969, 125.495, 411.404, 411.620, 411.630, 411.708, 411.795, 416.310, 416.350, 2013 OL 14 Sec. 10
 Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 16-2008, f. 7-1-08, cert. ef. 10-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 16-2010(Temp), f. & cert. ef. 5-27-10 thru 11-23-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14

461-135-0837

Administering Medicaid Estate Claims When the Recipient of Assistance was a Native American Indian or Alaskan Native Village Tribal Member

(1) When the Department has a claim against the Estate of a deceased Native American Indian or Alaskan Native Village tribal member, certain exemptions from recovery apply. The following income, resources and property are exempt from Medicaid estate recovery:

(a) Income and resources that are specifically exempt by law from Medicaid estate recovery, such as:

(A) Interests in and income derived from tribal land and other resources currently held in trust status; and

(B) Judgment funds from the Indian Claims Commission and the United States Court of Federal Claims.

(b) Ownership interest in trust or non-trust property, including real property and improvements:

(A) Located on a reservation (any federally recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act and Indian allotments);

(B) Located near a reservation as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior; or

(C) For any federally recognized tribe not described in paragraphs (A) and (B) of this subsection, located within the most recent boundaries of a prior federal reservation.

(c) Income left as a remainder in an Estate, derived from property described in sections (1)(a) and (b) of this rule, that was collected by an Indian, by a tribe, or by a tribal organization and distributed to one or more Indians, as long as the personal representative of the Estate can clearly trace and document that the income came from the protected property.

(d) As long as the personal representative of the Estate can clearly trace and document that it came from the protected sources:

(A) An ownership interest left as a remainder in an Estate in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights; and

(B) Income derived from these sources that is collected by an Indian, a tribe, or a tribal organization and distributed to one or more Indians.

(e) Ownership interest in and usage rights to items not covered by subsections (a) through (d) of this section that have unique religious, spiritual, traditional or cultural significance.

(f) Rights that support subsistence or a traditional life style according to applicable tribal law or custom.

(2) Protection of non-trust property described in sections (1)(a) and (b) of this rule is limited to circumstances when it passes from an Indian (as defined in section 4 of the Indian Health Care Improvement Act, Pub. L. No. 94-437) to:

(a) One or more relatives (by blood, adoption or marriage), including Indians not enrolled as a member of a tribe and non-Indians, such as spouses and step-children, who would be protected as family members by the tribe;

(b) A tribe or tribal organization; or

(c) One or more Indians.

(3) The following are subject to Medicaid estate recovery:

(a) Native American Indian and Alaskan Native tribal member ownership interest in assets and property, both real and personal, that are not described in sections (1) and (2) of this rule.

(b) Any income or assets left as a remainder in the Estate that do not derive from protected property or sources described in sections (1) and (2) of this rule.

[Publication.: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 410.070 & 414.105

Stat Implemented: ORS 414.106 & 416.340

Hist.: AFS 13-2002, f. & cert. ef. 10-1-02

461-135-0838

Administering Estate Claims

(1) When the Department has a claim against the estate of a deceased person, EAU will be responsible for recovering the claim from the estate.

(2) EAU may take necessary action to identify or otherwise preserve assets so they will be available for claims against the estate.

(3) EAU will determine the most cost-effective way to dispose of real and personal property. EAU may dispose of the property by conducting sales through licensed real estate brokers, public auctions, competitive bidding, or other methods found most cost-effective.

(4) When property has been disposed of, EAU will credit the proceeds to the Department's claim. Any amounts exceeding the claim will be available to all other claims against the estate. If no other claims exist, any excess amounts will be paid to the heirs or devisees, if any. Any remaining amounts revert to the Division of State Lands.

Stat. Auth.: ORS 113.145, 130.370, 410.070, 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.710

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91

461-135-0839

Title to Real and Personal Property

(1) The Seniors and People with Disabilities Division may take title to real and personal property in performing its duties

under ORS 411.630, 411.795, 412.600, 413.200, 414.105, and 416.310. Title shall be taken in the name of the Department. The Department may convey the property by deed or other appropriate conveyance under procedures adopted by rule of the Department:

(a) The Department is authorized to convey, as Grantor, property to the Grantee through issuance of the Bargain and Sale Deed or other appropriate conveyances;

(b) The Bargain and Sale Deed will be signed by the Assistant Director of the Seniors and People with Disabilities Division or his/her designee.

(2) Recording responsibilities of the Deed will be the responsibility of the Grantee unless otherwise agreed upon by the Department.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.795

Hist.: AFS 28-1993(Temp), f. & cert. ef. 11-3-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94

461-135-0841

Undue Hardship Waiver Criteria

(1) The Department may waive enforcement of any estate recovery claim if it finds that enforcing the claim would result in an undue hardship to the beneficiaries, heirs, or family members of the deceased client claiming entitlement to receive the assets of the deceased client.

(2) In determining whether an undue hardship exists, the Department may consider the following criteria:

(a) Whether enforcement of the claim would cause the waiver applicant to become eligible for assistance; and

(b) Whether enforcement of the claim would cause the waiver applicant, who would otherwise be eligible for assistance, to become homeless.

(3) Waiver of an estate recovery claim may include, but is not limited to, the following:

(a) Forgiveness of all or part of the claim, or any other relief the Department deems fit; or

(b) Taking a mortgage or trust deed in lieu of enforcement of the claim.

(4) No waiver will be granted if the Department finds that the undue hardship was created by resort to estate planning methods by which the waiver applicant or deceased client divested, transferred or otherwise encumbered assets, in whole or in part, to avoid estate recovery.

(5) No waiver will be granted if the Department finds that the undue hardship will not be remedied by the grant of the waiver.

Stat. Auth.: ORS 410.070, 411.060 & 414.106

Stats. Implemented: ORS 414.106 & 416.340

Hist.: AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 8-1999, f. 5-27-99, cert. ef. 6-1-99; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-135-0843

Establishing Legal Title, Interest or Form of Ownership

(1) Effective July 18, 1995, The Legal Title to or other Interest of a Person in Real or Personal Property or other Assets shall be presumed to be that set forth in any Ownership Documents. The presumption raised by such Ownership Documents may be rebutted by Convincing Evidence that accurately reflects a Person's Legal Title to, ownership of or Interest in the Real or Personal Property or other Asset. However, the department shall not consider property or assets in which the decedent held only bare legal title in the capacity as a trustee with no beneficial, equitable, reversionary or other ownership Interest in the property or assets, as property or assets in which the decedent had an Interest or held Legal Title.

(2) The form of Interest created by the Ownership Documents shall be governed by the law in effect at the Time of Death of the jurisdiction in which the Real or Personal Property or other Assets are located.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.105

Hist.: AFS 29-1996, f. & cert. ef. 8-28-96

461-135-0844

Procedures for Applying for Undue Hardship Waiver

In connection with a request for an undue hardship waiver under OAR 461-135-0841:

(1) The Department will provide written notice of the hardship waiver rules to:

(a) The personal representative or other person handling the deceased client's estate, if that person is known to the Department at the time the Department files its claim with the probate court. If the person handling the deceased client's estate is not known to the Department, the Department will file the written notice with the claim that it files with the probate court; or

(b) Any beneficiary, heir or family member of the deceased client who contacts the Department asserting a right superior to that of the Department to receive property or other assets of the deceased client unless the Department agrees that the beneficiary, heir or family member's claim is superior; or

(c) Any beneficiary, heir or family member of the deceased client who held an asset jointly with the deceased client at the time of death, if that person is known to the Department unless the Department determines that it has no right to the jointly held asset.

(2) Any beneficiary, heir, or family member claiming entitlement to receive the assets of the deceased client may apply for a hardship waiver under this rule by submitting a written request for a waiver to the Department within 45 days of the date the notice was sent to the person or to the probate court. The Department may, in its discretion, consider waiver applications filed after the 45-day period if the waiver applicant demonstrates that there was good cause for the delay.

(3) The written request shall include all the following information:

(a) The relationship of the waiver applicant to the decedent.

(b) The nature of the applicant's right to receive the property of the decedent if the waiver is granted.

(c) The applicant's financial situation or other facts that support the applicant's claim that an undue hardship exists.

(d) A statement of the type of waiver that is being requested.

(e) Documentation establishing or demonstrating any of the information submitted.

(f) Any other information or documentation that the applicant believes should be considered by the Department in determining whether an undue hardship exists.

(4) The Department may request additional information or documentation from the applicant. If the additional information or documentation is not provided within 30 days of the Department's request for additional information or documentation, the hardship waiver application will be considered by the Department on the basis of the information and documentation provided.

(5) Within 90 days of receipt of the hardship waiver application, the Department will issue a written decision granting or denying, in whole or in part, the applicant's request for an undue hardship waiver.

(6) If the decision is adverse to the hardship waiver applicant, the Department's written decision shall include information regarding the applicant's right to a contested case hearing before the Office of Administrative Hearings.

(7) The rules and procedures adopted by the Department in chapters 137 and 461 of the Oregon Administrative Rules shall apply to hearings challenging the denial of a hardship waiver application.

(8) The issue for the hearing will be whether the Department's decision was correct based on the information available to the Department at the time the written decision was issued, unless the applicant can show good cause for failing to submit relevant information or documentation to the Department prior to the date the written decision was issued.

(9) Receipt of a timely request for waiver or request for hearing shall not prevent or delay the Department's pursuit of its estate recovery claim pending issuance of a final order at the conclusion of the hearing. The Department shall return any funds it

collected if it is ultimately decided that the waiver should have been granted.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.795

Hist.: AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-135-0845

Valuation of Life Estate, Reversionary Interest and Property

(1) Effective July 18, 1995, the value of an expressly created life estate or other interest in real or personal property or other asset measured by or valued with respect to a life span, including that of the relevant recipient of public assistance, is established by reference to the life estate valuation tables set forth in this rule and is valued as of the time of death of the recipient of public assistance irrespective of the actual life span of the measuring life. [Table not included. See ED. NOTE.]

(2) For assistance recovery purposes, the interest of a person in real or personal property or other asset held in joint tenancy with right of survivorship (including transfers with right of survivorship covered by ORS 93.180) or other form of concurrent ownership with one or more other persons with right of survivorship, other than a spouse or a transfer on death deed (see OAR 461-135-0832), is presumed to be the value of the fractional share held by the person. The fractional share of a person is presumed to be the share reflected in the ownership documents. Such presumption may be rebutted under the Consideration Furnished Test or by Convincing Evidence of the actual consideration contributed by another co-owner of the property or asset. In the absence of any stated fractional share on the Ownership Documents, each co-owner is presumed to have an equal fractional share of ownership of the whole, unless rebutted by the Consideration Furnished Test or as otherwise established by Convincing Evidence.

(3) With respect to Real or Personal Property or an Asset held jointly by spouses, as Tenants in Common, tenants by the entirety, with right of survivorship or otherwise, such property or asset is conclusively deemed to be owned one-half by each spouse; provided, however, that in the event the Ownership Documents expressly set forth a different fractional share of ownership, and such fractional share is lawful in the appropriate jurisdiction, then the fractional share set forth in such Ownership Documents is presumed to be the fractional share owned by each spouse. Such presumption may be rebutted by Convincing Evidence.

(4) With respect to a transfer on death deed, for assistance recovery purposes, the transferor is presumed to own the full value of the real property. If there is more than one transferor their respective interests are determined in accordance with sections (2) and (3) of this rule.

(5) The Value of Real Property at, or prior to, the Time of Death is determined by establishing the fair market value of the property to the satisfaction of the Department. The burden of proof for establishing the Real Property's fair market value to the satisfaction of the Department lies with the person or, after the Time of Death of the person, with the person's representative, and may be established by any methodology, including the provision of an appraisal performed by an appraiser certified or licensed in the applicable jurisdiction, that the Department determines most accurately reflects the Value of the Real Property. The Value of liens and other encumbrances against the Real Property that is established by Convincing Evidence, if appropriate, is subtracted from the fair market value of the Real Property in order to derive a net fair market value of the Real Property.

(6) The Value of Personal Property consisting of shares of stock or other securities traded on an exchange is evidenced by the average of the bid and ask prices on the date of the Time of Death, or the next trading day thereafter. If such bid and ask prices are unavailable for certain stocks or securities, the Value may be established by a written estimate from the corporation or other entity issuing such shares or securities of the Value, or if such estimate is unobtainable, an estimate from a broker, trader or other Person with knowledge in the field of the Value. Liens and encumbrances established by Convincing Evidence against shares of stock or

other securities is subtracted from the value of such stock or securities established by the foregoing procedure.

(7) The Value of tangible Personal Property, including, but not limited to, livestock, furniture, vehicles and other tangible items may be established:

(a) By a written estimate from a Person knowledgeable in the field of appraising such items of Personal Property; or

(b) From published sources such as catalogs of antiques or collectibles, blue books or other Convincing Evidence that accurately establishes the Value of the property. Liens and encumbrances established by Convincing Evidence against tangible personal property is subtracted from the value of such property established by the foregoing procedure.

(8) The Value of intangible Personal Property not otherwise provided for in this rule, is established by a written estimate from a Person knowledgeable in the field of appraising such items of intangible Personal Property. Liens and encumbrances established by Convincing Evidence against tangible personal property is subtracted from the value of such property established by the foregoing procedure.

(9) Notwithstanding anything to the contrary contained in this rule, in cases where an inventory has been filed with the appropriate court or an estate tax return has been filed with the appropriate governmental authority, the Value of any Real or Personal Property or other Asset is presumptively established by the amounts set forth on such inventory or estate tax return. The presumptive Value established by such inventory or return may be rebutted by Convincing Evidence.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 410.070, 411.060, 411.070, 416.340, 416.350
Stats. Implemented: ORS 411.708, 411.795, 416.310, 416.340, 416.350, 2011 OL 212 sec. 13, 2011 OL 720 sec. 224
Hist.: AFS 29-1996, f. & cert. ef. 8-28-96; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2004(Temp), f. & cert. ef. 2-5-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-135-0847

Forms; Request for Notice of Transfer or Encumbrance; Termination of Request for Notice of Transfer or Encumbrance; Notice of Transfer or Encumbrance

(1) The forms set forth in this rule are adopted in accordance with ORS 93.268, 205.246, and 411.692.

(2) Request for Notice of Transfer or Encumbrance Form; [Form not included. See ED. NOTE.]

(3) Termination of Request for Notice of Transfer or Encumbrance Form; [Form not included. See ED. NOTE.]

(4) Model Form — Notice of Transfer or Encumbrance Form; [Form not included. See ED. NOTE.]

(5) These forms are available at <http://dhsforms.hr.state.or.us/forms/databases/findforms.htm>. At the Find a form window in the Form Number field, type in the four-digit form number and click on search.

[ED. NOTE: Form referenced are available from the agency.]
Stat. Auth.: ORS 93.268, 205.246 & 411.692
Stats. Implemented: ORS 93.268, 205.246 & 411.692
Hist.: SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04

461-135-0850

Specific Requirements; Repatriate Program

(1) To be eligible for the Repatriate Program, a person must meet all of the following criteria:

(a) Be a United States citizen or the dependent of a United States citizen. Dependents include spouse, parents, unmarried minor children, and unmarried adult children with disabilities.

(b) Be identified by the Department of State as having returned from a foreign country because of destitution, illness (including mental illness), war, threat of war, invasion, or a similar crisis.

(c) Be without immediately available resources adequate to meet his or her needs.

(d) Certification by the United States Department of State as eligible for repatriation services.

(2) An eligible repatriate may receive aid under the Repatriate Program for up to 90 days from the date of arrival in the United States, unless approval for an extension has been granted through the United States Department of State, Office of International Social Services.

(a) For the first 30 days, there is a one-time payment of up to \$560 per person depending on need.

(b) After the first 30 days, the type and amount of assistance is provided according to the TANF standard.

(3) An individual who has received Repatriate benefits is required to repay all of the cost to the federal government unless the individual has a certificate from International Social Services (ISS-USA) that the individual has been determined mentally incompetent. Any claim the repatriate has against any individual, trust, estate, partnership, corporation, or government must be assigned to the federal government toward repayment.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-135-0875

Specific Requirements; Retroactive Eligibility

(1) Clients are evaluated for retroactive eligibility as follows:

(a) Clients applying for Medicaid are evaluated for retroactive eligibility in the OSIPM, QMB-DW, QMB-SMB, QMB-SMF, and REFM programs. This includes deceased individuals who would have been eligible for Medicaid covered services had they, or someone acting on their behalf, applied.

(b) Clients found ineligible for the OSIPM program solely because they do not meet the citizenship requirements of OAR 461-120-0125. Clients eligible under this subsection are eligible only for CAWEM program benefits (see OAR 461-135-1070).

(2) If eligible for medical assistance retroactively, the client's eligibility cannot start earlier than the date indicated by OAR 461-180-0140.

(3) In the QMB-BAS program, there are no retroactive medical benefits.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 8-1993(Temp), f. & cert. ef. 4-26-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14

461-135-0900

Specific Requirements; REF, REFM

(1) In addition to the eligibility (see OAR 461-001-0000) requirements in other rules in OAR chapter 461, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.

(2) An individual must meet the alien status requirements of OAR 461-120-0125, except a child (see 461-001-0000) born in the United States to an individual in the REF or REFM program meets the alien status requirements for the REF and REFM programs as long as each parent (see 461-001-0000) in the household group (see 461-110-0210) meets the alien status requirements of 461-120-0125.

(3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of "higher education", unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered “higher education”.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered “higher education”.

(4) Eligibility for REF and REFM program benefits is limited to the first eight months in the United States:

(a) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(a), (c), (d), or (e), the month that the individual enters the U.S. counts as the first month.

(b) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(b), (f), or (g), the month that the individual was granted the individual’s status counts as the first month.

(c) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(h):

(A) If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.

(B) If the individual is granted special immigrant status after the individual has already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.

(d) Months in the United States are counted as whole months. There is no prorating of months, except as described in OAR 461-193-0320.

(5) For an individual who meets the requirements of section (4) of this rule:

(a) When the individual resides in Clackamas, Multnomah, or Washington County:

(A) The individual is not eligible to receive REF, TANF, or TANF-related employment services through the Department. To receive benefits, the individual is required to participate in the Refugee Case Service Project (RCSP) program. This individual is referred to the individual’s local resettlement agency to be enrolled in the RCSP program and receives all other Department services through the individual’s local Department office.

(B) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through the RCSP program. If this individual has been in the United States for 12 months or less, the individual is referred to the New Arrival Employment Services (NAES) program contractor for employment services.

(b) When the individual resides in a county other than Clackamas, Multnomah, and Washington, the RCSP program is not available. The individual is served at the individual’s local Department office.

(6) Except for QMB, eligibility for all Medicaid and CHIP programs must be determined prior to determining eligibility for the REFM program.

(7) Eligibility for the TANF program must be determined prior to the REF program.

(8) An individual in the REF program may not participate in the Pre-TANF program.

(9) An REFM benefit group (see OAR 461-110-0750) may continue to receive REFM for the remainder of the eight months, as stated in (4) of this rule, if:

(a) A newborn is born to a benefit group member while the benefit group member was receiving REFM; and

(b) The benefit group applied for OCCS Medical and was denied.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 412.049, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.878, 412.049, 414.685
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 1-1993, f. &

cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 33-1996(Temp), f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 13-2010(Temp), f. & cert. ef. 5-17-10 thru 11-13-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-135-0910

Unaccompanied Minor Program; REF, REFM

Refugees who entered the United States under the Unaccompanied Minor Program administered by the federal Office of Refugee Resettlement are wards of the court and are in the custody of a public agency. They are not eligible for REF or REFM.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 10-1-90; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 8-2008, f. & cert. ef. 4-1-08

461-135-0920

Refugees Applying for SSI

(1) REF applicants who are age 65 or older or who are blind or have a disability (see OAR 461-001-0000) are referred to Social Security to apply for SSI. REF applicants who are found eligible for the REF program receive REF program benefits until SSI benefits begin or until passage of the eight-month time limit for the REF program, whichever occurs first.

(2) Refugees eligible for SSI are eligible for the OSIPM program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.706

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 24-2013, f. & cert. ef. 10-1-13

461-135-0930

Medical Coverage for Refugees; REFM

(1) REFM benefits are the same medical coverage as any Medicaid or CHIP program, except the QMB and CAWEM programs.

(2) A client is not required to meet the financial eligibility criteria for REFM if the client meets all the non-financial eligibility criteria for REFM and:

(a) The client loses eligibility for any Medicaid or CHIP program except the QMB and CAWEM programs; or

(b) The client had refugee-related medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and moved to Oregon within the client’s first eight months in the United States.

(3) A client who is determined eligible for REFM will maintain eligibility for REFM for the remainder of their first eight months in the United States even if the client loses eligibility for REF due to having income equal to or over the REF countable (see OAR 461-001-0000) income and adjusted income (see OAR 461-001-0000) limits (see OAR 461-155-0030).

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-135-0950

Eligibility for Inmates and Residents of State Hospitals

(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 OARs.

(2) Definition of an “inmate”.

Chapter 461 Department of Human Services, Self-Sufficiency Programs

(a) An inmate is an individual living in a public institution 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; or

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

(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 both:

(a) Caused primarily by substance abuse; and

(b) Likely to no longer meet the applicable diagnosis if the substance abuse discontinues or declines.

(5) An individual who resides in a public institution, 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 public institution 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) A client who becomes a resident of a state hospital has medical benefits suspended for up to twelve full calendar months 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, 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 psychiatric institution may be eligible for OSIPM benefits if the individual:

(a) Receives services on a certified ward;

(b) Meets level of care as certified by Acumentra; 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 21 years of age.

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

(a) If a pregnant woman receiving medical assistance through the GAM or 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.

(b) If an individual receiving medical assistance through the GAM, OSIPM, or QMB program becomes an inmate of a correctional facility with an expected stay of no more than 12 months, medical benefits are suspended for up to 12 full calendar months during the incarceration period.

(A) In the GAM program, when the Department is notified by a client with suspended benefits that the client has been released from incarceration, and the notification takes place within 10 days of the release or there is good cause for the late reporting, medical benefits are reinstated effective the first day the client is no longer an inmate.

(B) In the OSIPM or QMB program, when the Department is notified that an individual with suspended benefits has been released, and the notification takes place within 10 days of the release, medical benefits are reinstated effective the first day the client is no longer an inmate if the client continues to meet eligibility for the medical program.

(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.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049, 414.426, 2011 OL

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 17-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-135-0990

Specific Requirements; Reimbursement of Cost-Effective, Employer-Sponsored Health Insurance Premiums

(1) Clients or an eligible applicant (see section (2) of this rule) for a client in the CEM, EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), and OSIPM programs may be reimbursed for their share of the premiums for private or employer-sponsored group health insurance if.

(a) The insurance covers a member of the benefit group (see OAR 461-110-0750);

(b) The insurance coverage is a comprehensive major medical plan that includes inpatient and outpatient hospital, physician, lab, x-ray and full prescription coverage; and

(c) The premium is cost-effective (see OAR 461-155-0360 and OAR 410-120-1960).

(2) An “eligible applicant” may be a non-Medicaid individual living in or outside of the household. The Department may pay a portion of or the entire premium if payment of the premium for the non-Medicaid individual is necessary in order to enroll the Department client in the group health plan (see OAR 410-120-1960).

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 16-2014, f. & cert. ef. 7-1-14

461-135-1070

Specific Requirements; Citizen/Alien-Waived Emergent Medical (CAWEM)

To be eligible for the CAWEM program, a client must be ineligible for OSIPM solely because he or she does not meet citizenship or alien status requirements. Benefits of the CAWEM program are limited to the services described in the administrative rules of the Oregon Health Authority in chapter 410 of the Oregon Administrative Rules.

Stat. Auth.: ORS 409.050, 411.404

Stats. Implemented: ORS 411.060, 411.404

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2004(Temp), f. & cert. ef. 7-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-135-1175

Senior Farm Direct Nutrition Program

(1) The Senior Farm Direct Nutrition Program (SFDNP) provides farm direct checks to low income individuals.

(2) An individual is eligible for SFDNP if the individual meets all of the following eligibility criteria on April 1 of the calendar year in which benefits are sought:

(a) Has countable income (see OAR 461-001-0000) less than 135 percent of the Federal Poverty Level as listed in OAR 461-155-0295.

(b) Receives Medicaid or SNAP benefits.

(c) Is homeless or resides in their own home or rental property.

(d) Is age 60 or older.

(3) SFDNP is funded by a grant from the United States Department of Agriculture (USDA). The Department determines the allotment amount and number of eligible individuals on an annual basis, based on the grant allocation received from the USDA.

(4) The Department may not issue more than one SFDNP allotment per participant, per year.

(5) SFDNP begins June 1 each year and ends on October 31 each year. In order to qualify for the program, the Department must receive the applicant’s letter of interest by September 15 of the year in question.

(6) The Department processes applicants’ letters of interest in the order in which the letters are received at the Department’s central office.

(7) When the grant allocation received from the USDA is expended in its entirety, the Department closes SFDNP for the year in question.

(8) The Department determines the treatment of SFDNP benefits during the eligibility process for other programs in accordance with OAR 461-145-0190.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070

Stats. Implemented: ORS 409.050, 410.070, 411.060, 411.070

Hist.: SSP 8-2006, f. & cert. ef. 6-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 11-2009(Temp), f. & cert. ef. 6-1-09 thru 11-27-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 8-2010(Temp), f. & cert. ef. 4-1-10 thru 9-28-10; SSP 18-2010, f. & cert. ef. 7-1-10; Suspended by SSP 21-2012(Temp), f. & cert. ef. 6-8-12 thru 12-5-12

461-135-1185

Low-Income Subsidy Program (LIS)

The Low-Income Subsidy (LIS) program is a federal assistance program for Medicare clients who need extra help meeting their Medicare Part D prescription drug costs. The LIS program helps Medicare clients pay their monthly premium, deductible, and co-insurance costs under Part D. The LIS program is a means-tested program. All clients must qualify on the basis of household income, resources, and size as defined by the Social Security Administration.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10

461-135-1186

LIS Applications

An LIS application is complete if all of the following requirements are satisfied:

(1) The applicant satisfies the provisions of OAR 461-115-0050 and completes the Department’s forms.

(2) The applicant must submit:

(a) A certification by the applicant or personal representative, under penalty of perjury or sanction for false statement, as to the accuracy of information provided on the application form (see 42 CFR 423.904(d)(2));

(b) All required statements from financial institutions (see 42 CFR 423.904(d)(3)); and

(c) All information for verification (see 42 CFR 423.904(d)(3)) required under OAR 461-115-0610.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05

461-135-1187

Eligibility Determinations and Due Process for LIS

(1) The regulations set out at 42 CFR 423.771 to 423.774 are expressly adopted and incorporated by reference for LIS. These regulations apply to the application process, eligibility determinations, and redeterminations.

(2) The Department will send to LIS applicants a decision notice consistent with the provisions of OAR 461-175-0200 not later than the 45th day after the date of request.

(3) An applicant may appeal an adverse decision notice under the provisions of division 461-025 of the Oregon Administrative Rules.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05

461-135-1195

Specific Requirements; SFPSS Eligibility

In the SFPSS program:

(1) To be eligible, a client must meet the following requirements:

(a) Be an adult;

(b) Meet all TANF program eligibility requirements (except as provided otherwise in this rule);

(c) Be receiving TANF benefits;

(d) Have an impairment that meets the requirements in OAR 461-125-0260;

(e) File an application for Supplemental Security Income (SSI) disability benefits under the Social Security Act; and

(f) Sign an Interim Assistance Authorization authorizing the Department to recover interim SFPSS program benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or the initial payment after the decision on SSI eligibility. The following provisions are considered part of the Interim Assistance Authorization:

(A) Interim SFPSS program benefits include only those SFPSS program cash benefits paid to the adult, who is applying for SSI, during the period of time that the SSI benefit covers.

(B) For any month in which SSI is prorated, the Department may recover only a prorated amount of the interim SFPSS program cash benefit.

(C) If the Department does not stop delivery of an SFPSS program benefit issued after the SSI payment is made, the SFPSS program payment is included in the interim assistance reimbursement to the Department.

(2) Counting earned and unearned income.

(a) The TANF standards in OAR 461-155-0030 are used to determine eligibility for the SFPSS program.

(b) The SFPSS payment standard (see OAR 461-155-0320) is used to determine the benefit amount for the SFPSS program.

(3) A client whose impairment no longer meets the criteria in OAR 461-125-0260 is ineligible for SFPSS benefits.

(4) An SFPSS client found by the Social Security Administration (SSA) not to meet disability criteria may continue receiving SFPSS benefits until all SSA administrative appeals are exhausted.

(5) Once a client is approved for SFPSS, the client is no longer subject to OAR 461-120-0340. The client remains exempt from 461-120-0340 as long as the client is eligible for and receiving SFPSS.

(6) Each client is required to participate in the appropriate activities the Department determines necessary, including activities that promote family stability (see OAR 461-001-0000). The Department must consider the needs of an individual with a disability (see 461-001-0000), and a client's need for accommodation or modification.

(7) A client must provide the information necessary for the Department to administer the program.

(a) The necessary information includes that needed to determine appropriate activities for the client and to assess whether a client had good cause (see OAR 461-130-0327) for any failure to meet a requirement of the program.

(b) If a medical condition is in question, the Department will assist and may require the client to provide a medical opinion from a qualified and appropriate medical professional.

(8) The Department offers each client the opportunity to participate in any suitable JOBS program activity (see OAR 461-001-0025).

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.014, 412.049, 412.084

Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 34-2009(Temp), f. & cert. ef. 11-16-09 thru 5-14-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12

461-135-1197

Good Cause; SFPSS

In the SFPSS program:

(1) The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(2) If in making a determination under this rule, a client's physical or mental impairment is in question, the Department may require the client to provide documentation from a qualified and appropriate medical professional.

(3) A client is excused for good cause from a failure to comply with a requirement of the SFPSS program, including an activity (see OAR 461-001-0025) in a case plan (see 461-001-0025) in the following circumstances:

(a) Participation in a required activity in a case plan would have an adverse effect on or risk to the client's physical or mental health or would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(b) Participation is likely to cause undue hardship for the dependent child (see OAR 461-001-0000) or the client.

(c) When the failure to comply is caused by the failure of the Department to timely provide or authorize a support service payment.

(d) Appropriate child care, or day care for an individual in the household who has a disability (see OAR 461-001-0000) that substantially reduces or eliminates the individual's ability to care for himself or herself, cannot be obtained. "Appropriate child care" means that:

(A) Both the provider and the place where care is provided meet health, safety, and provider requirements as required in OAR 461-165-0180;

(B) The care accommodates the parent's work schedule; and

(C) The care meets the specific needs of the dependent child, such as age and special-needs requirements.

(e) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.

(f) The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.

(g) The client's participation in a required activity in a case plan would prevent or interfere with the client's participation in an activity of the Grande Ronde Tribe's NEW program.

(h) The client's failure to participate is due to a circumstance beyond his or her reasonable control.

(i) When the failure to comply is caused by an aspect of the client's disability, including the Department's failure to provide a reasonable accommodation.

(j) The client quits a job to accept another job with a monthly income at least equal to the monthly income of the first job.

(k) An individual separated from his or her most recent

employment for circumstances the Department determines are rea-

sonable.

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.014,

412.049

Hist.: SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-135-1200

Domestic Violence

(1) The Department is authorized by ORS 411.117 to waive or modify requirements of the TANF program that make it more difficult for clients to escape domestic violence or put them at risk of further or future domestic violence.

(2) The Department waives the TANF requirement in OAR 461-135-0070(1)(e) for a pregnant woman to have reached late pregnancy if a client is at risk of further or future domestic violence.

(3) Except as provided in section (4) of this rule, a client is not required to meet a requirement of the TANF program contained in this chapter of rules if and while compliance by the client would make it more difficult for the client to escape domestic violence or place the client at risk of further or future domestic violence.

(4) The following TANF requirements remain in effect as described even if a client is a victim of domestic violence or at risk of victimization by domestic violence:

(a) The TANF requirements in OAR 461-135-0070 to be a dependent child, a caretaker relative, or parent.

(b) The TANF requirement in OAR 461-120-0630 that a dependent child live with a caretaker relative, except the latter requirement may be waived during a reasonable period while the caretaker relative escapes from further or future domestic violence.

(c) The requirement of residency for TANF in OAR 461-120-0010 except that a person may access TA-DVS if the person meets all other eligibility requirements and is currently in Oregon while fleeing to another state for safety reasons arising from domestic violence.

(d) Income or resource limits except as specifically provided in OAR 461-140-0020 and 461-140-0040.

Stat. Auth.: ORS 411.117

Stats. Implemented: ORS 411.117

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; Administrative correction 2-23-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06

461-135-1205

Temporary Assistance for Domestic Violence Survivors Program

The Temporary Assistance for Domestic Violence Survivors program (the program or TA-DVS) is established. The program develops a case plan and addresses temporary needs of applicants for and recipients of the TANF program and others who are victims of domestic violence, have been victims of domestic violence or are at risk of victimization by domestic violence. The rules for the program are contained in OAR 461-135-1205 to 461-135-1235. The purposes of the program are:

(1) To help families affected by domestic violence identify their emergent and safety needs;

(2) To help families identify actions that may increase their safety;

(3) To identify community resources that may meet families' needs;

(4) To provide temporary financial assistance and supportive services to eligible families when needed resources are not immediately available; and

(5) To provide financial assistance and services to help the domestic violence survivor and the children remain free from abuse.

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060, 412.049 & 411.117

Hist.: AFS 9-1999, f. & cert. ef. 7-1-999; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05

461-135-1215

TA-DVS; Who is Eligible for the Program?

The program addresses temporary needs of clients who are currently victims of *domestic violence*, have been victims of *domestic violence* or are at risk of victimization by *domestic violence*; whose safety is at risk because of *domestic violence* or the current threat of *domestic violence*; and who meet the financial and non-financial requirements in OAR 461-135-1225.

Stat. Auth.: ORS 411.060 & 412.049
 Stats. Implemented: ORS 411.060, 412.049 & 411.117
 Hist.: AFS 9-1999, f. & cert. ef. 7-1-99

461-135-1220

TA-DVS; Application for Assistance and Effective Dates

The client may apply for the program in person, in writing, or by phone. The Department will assess the client's safety concerns within eight working hours of receiving the application and will offer options to the client for addressing immediate safety needs. The Department will determine eligibility within sixteen working hours after the application is complete, whether or not the client has signed the application.

Stat. Auth.: ORS 411.060 & 412.049
 Stats. Implemented: ORS 411.060, 411.117 & 412.049
 Hist.: AFS 9-1999, f. & cert. ef. 7-1-99; SSP 8-2004, f. & cert. ef. 4-1-04

461-135-1225

TA-DVS; Eligibility and Verification Requirements

In the TA-DVS program:

(1) Eligibility requirements are the same as for the TANF program, except as provided otherwise in OAR 461-135-1200 to 461-135-1235.

(2) The financial eligibility requirements are the same as for the TANF program except that:

(a) A TANF grant does not count as income.

(b) Income received during the budget month is not counted if the client does not have reasonable access to the money or cannot access the money independently of the abuser.

(c) Income received during the budget month is not counted if the client needs the money for expenses made necessary by a flight from abuse, for instance an expense for temporary lodging.

(d) There is no resource limit.

(e) The income limit is the applicable TANF Countable Income Limit Standard amount in OAR 461-155-0030, but uses *net income* instead of *countable* (see OAR 461-001-0000) income. For purposes of this subsection, *net income* means the income *countable* for TA-DVS minus income and FICA (Federal Insurance Contributions Act) taxes, and other mandatory payroll deductions.

(f) Other financial requirements may be waived in accordance with OAR 461-135-1200.

(g) SSI income is *countable* (see OAR 461-001-0000), if available in time to meet the emergent need (the immediate safety need) of the client.

(3) The non-financial requirements are the same as for the TANF program except that:

(a) Citizenship and alien status requirements (OAR 461-120-0110) are waived.

(b) The requirements to assign support and obtain assets (see OAR 461-120-0310 to 0350) are waived, but the Department will assist the client obtain support at the client's request.

(c) The requirement of regular school attendance (OAR 461-120-0530) is waived.

(d) The client is not required to participate in an employment program (see divisions 130 and 190 of this chapter of rules).

(e) The TANF program requirement for a caretaker relative in the *need group* (see OAR 461-110-0630) to not have been separated from his or her most recent employment for a reason that would result in a denial of TANF program benefits under OAR 461-135-0070 is waived when there is risk of further or future *domestic violence* (see OAR 461-001-0000) against the *need group*.

(f) Other non-financial requirements may be waived in accordance with OAR 461-135-1200.

(4) Verification is required as in the TANF program except:

(a) No verification is required that the client is a victim of domestic violence or needs to flee from abuse.

(b) If the individual has been arrested for or convicted of an act of *domestic violence* in the past and if it is uncertain whether the individual is a victim of *domestic violence*, the Department verifies that the individual is not or was not a perpetrator of *domestic violence*. A statement from a law enforcement officer, a district attorney, the court, a batterer intervention program, a victim's

advocate, a Child Welfare staff person, a mental health provider, a health care or other medical provider, a member of the clergy, or other professional from whom the individual has requested assistance to address the alleged *domestic violence* indicating that the individual is not a perpetrator of *domestic violence* or is a self-defending victim is adequate verification. If no verification is available, the Department's central office DV Policy Analyst may assist field in determining what other verification is acceptable.

(c) Verification of other financial or non-financial eligibility factors is postponed if the delay in finding the client eligible would prevent the client from meeting an emergent need.

Stat. Auth.: ORS 411.060, 412.049
 Stats. Implemented: ORS 411.060, 411.117, 412.049
 Hist.: AFS 9-1999, f. & cert. ef. 7-1-1999; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10

461-135-1230

Benefits; TA-DVS

In the TA-DVS program:

(1) A client may receive benefits of the program for 90 days from the date the client was found eligible. A client may receive benefits simultaneously from the TA-DVS and TANF programs. A client may receive benefits under the TA-DVS program not to exceed \$1,200 during the 90-day period of eligibility.

(2) Two 90-day eligibility periods may not overlap. Once a 90-day eligibility period has expired, the client may reapply for TA-DVS program benefits under section (4) of this rule.

(3) TA-DVS benefits address a specific crisis situation or episode of need related to the client's *domestic violence* (see OAR 461-001-0000) situation (such as securing new or temporary housing, payment of security deposit, first month's rent, moving expenses, furniture, and clothing replacement). TA-DVS benefits are not utilized to meet current ongoing or recurrent needs expected to continue beyond 90 days and are not used for the following items even if the client believes the item would contribute to the client's safety:

(a) Payment of attorney or other legal fees;

(b) Payment of a fine or other penalty;

(c) Payment of outstanding or past due costs such as rent or utilities when the client does not intend to stay in the residence or the need for the payment was not related to the current *domestic violence* situation;

(d) Payment of a pet fee (unless the pet is a service animal, and only when the service status has been verified by a medical or counseling professional);

(e) Payment for relocation of household or personal belongings from another state;

(f) Purchase of a car (including making car payments) or recreational vehicle, including a travel trailer;

(g) Purchase of a firearm or other weapon;

(h) Purchase of new furniture unless:

(A) The new furniture is not available through a community resource;

(B) A less costly alternative for acquiring the new furniture is not available;

(C) The old furniture was left behind when the client fled *domestic violence*; and

(D) The new furniture is essential to setting up a household (such as beds, dressers, a dining room table and chairs, a couch).

(i) Purchase of a non-essential item such as a television or computer, or service such as cable, satellite, internet, even if such an item or service was left behind when the client fled the domestic violence situation; or

(j) Purchase of a pet or guard animal.

(4) If a client submits an application meeting all eligibility criteria set forth in OAR 461-135-1215 and 461-135-1225 less than 12 months after the ending of a 90-day period of eligibility in which the client received benefits under this program, that application must be jointly staffed and approved or denied by the Department's field and central offices.

(5) The client and the Department prepare a case plan that identifies activities necessary to enhance the client's safety. The case plan specifies the payments the Department makes to meet the client's needs for shelter and food and for relocation or other services that will enhance the client's safety.

(6) A client's available liquid resources may be considered when developing the case plan.

(7) A payment issued for an item in the client's case plan is issued as a dual-payee or vendor-pay check unless the use of a dual-payee or vendor-pay check is likely to put the client at risk of harm.

Stat. Auth.: ORS 411.060, 411.070, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.117, 412.049

Hist.: AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10

461-135-1235

TA-DVS; Right to Hearing

A client whose application is denied or who does not receive a decision on an application by the close of the second business day following the date the application is complete is entitled to an expedited hearing (see OAR 461-025-0315). A dispute over the amount of any payment provided to or for the client is resolved in an expedited hearing; other disputes about the contents of a case plan are resolved through re-engagement.

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060, 411.117 & 412.049

Hist.: AFS 9-1999, f. & cert. ef. 7-1-99; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-1250

Specific Requirements: Post-TANF

(1) This rule explains specific requirements for the Post-TANF program. Through September 30, 2010, the Post-TANF program provides \$100 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the Federal Poverty Level (FPL), whichever comes first, as long as the client meets JOBS federally required participation rates (see OAR 461-001-0025) in combined unsubsidized paid work and JOBS activities.

(2) Effective October 1, 2010, the Post-TANF program provides \$50 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the FPL, whichever comes first, as long as the client meets JOBS federally required participation rates in combined unsubsidized paid work and JOBS activities.

(3) To enroll in the Post-TANF program, a client must:

(a) Have obtained unsubsidized paid employment;

(b) Have become ineligible for the Pre-TANF, TANF or SFPSS programs due to earnings; and

(c) Be a Work Eligible Individual as defined by federal regulations.

(4) To remain eligible for the monthly Post-TANF payment, the client must meet the requirements of all of the following subsections:

(a) Meet all TANF eligibility requirements, except the client need not meet the following requirements:

(A) OAR 461-120-0310 and 461-120-0340 (child support assignment and cooperation);

(B) OAR 461-120-0330 (pursuing assets);

(C) OAR 461-125-0010 (deprivation);

(D) OAR 461-155-0030 (income limits); and

(E) OAR 461-160-0015 (resource limits).

(b) Report and meet the monthly JOBS federal participation requirements with unsubsidized paid work and, if necessary, other JOBS activities.

(c) Provide the Department with employer-produced documents of paid, unsubsidized work hours within 45 days after Pre-TANF, TANF, or SFPSS has ended.

(d) The client must also provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department or no later than the last day of the sixth month

following the date the client provides the verification of work hours in accordance with subsection (c) of this section.

(e) Report all changes in residency and household group (see OAR 461-110-0210) affecting Post-TANF eligibility within 10 days of the occurrence.

(f) Changes reported for another program that affect Post-TANF eligibility are considered reported for Post-TANF.

(5) A client failing to comply with subsection (4)(c) of this rule but then providing documents after 45 days is eligible for Post-TANF payments only in the month the local Department office receives the documents and the months thereafter.

(6) Household income for the Post-TANF program is calculated in accordance with all TANF financial rules.

(7) Each parent (see OAR 461-001-0000) of a two-parent family is entitled to a monthly Post-TANF payment if both parents meet all Post-TANF enrollment and eligibility requirements.

(8) Monthly payments in the Post-TANF program begin the month after the last regular TANF benefit payment; or for Pre-TANF clients, the month after the Department verifies that the client meets TANF eligibility requirements.

(9) A client in the Post-TANF program is entitled to support services in accordance with OAR 461-190-0241. Additional support services may be granted with manager approval.

(10) A client is no longer eligible for a Post-TANF payment when the client does not meet JOBS federal participation requirements due to:

(a) Loss of employment;

(b) A reduction in work hours, and the client chooses not to participate in required JOBS activities offered by the Department; or

(c) A reduction in JOBS activity hours without good cause (see OAR 461-130-0327) that when combined with work hours does not meet the JOBS federally required participation rates.

(11) Notwithstanding any other administrative rule in Chapter 461, effective April 30, 2012 the Post-TANF program funding ends. Continuation of Post-TANF benefits is not authorized after April 30, 2012, regardless of whether a hearing request on Post-TANF is submitted or pending.

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.009, 412.049 & 412.124

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.124 & 2009 OL Ch. 827

Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 29-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; [SSP 13-2011(Temp), f. & cert. ef. 6-15-11 thru 12-12-11; Suspended by SSP 14 2011(Temp), f. & cert. ef. 6-29-11 thru 12-12-11]; SSP 14-2012(Temp), f. & cert. ef. 4-12-12 thru 10-9-12; SSP 15-2012(Temp), f. & cert. ef. 4-13-12 thru 10-9-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12

461-135-1260

Specific Requirements: Job Participation Incentive

(1) This rule explains specific requirements of the Job Participation Incentive (JPI). The JPI food benefit provides \$10 per month for qualifying SNAP households with a dependent child (see OAR 461-001-0000) under age 18.

(2) An individual eligible for JPI may receive a \$10 monthly food benefit.

(a) The individual receives the \$10 incentive payment starting the month the Department receives documentation that all enrollment criteria in section (3) of this rule have been met.

(b) There are no partial months of JPI benefits.

(c) The individual may only be issued retroactive JPI benefits as allowed under OAR 461-180-0130.

(3) As used in this rule, a "two-parent household" refers to a SNAP household group (see OAR 461-110-0210) that contains a dependent child under age 18 and the dependent child's two parents.

(4) To receive JPI, an individual must be in a SNAP filing group (see OAR 461-110-0370) and meet the requirements of all of the following subsections:

(a) Be working at an unsubsidized paid employment that meets the federally required participation rates (see OAR 461-001-

0025). For self-employment or piece rate work, the hours of work must be equivalent to the required average weekly hours at Oregon State minimum wage. An individual must meet the requirements of at least one of the following paragraphs:

(A) Be a single parent (see OAR 461-001-0000) of a dependent child under six years of age and working at an unsubsidized paid employment for an average of at least 20 weekly hours.

(B) Be a single parent of a dependent child at least six years of age and under 18 years of age, and working at an unsubsidized paid employment for an average of at least 30 weekly hours.

(C) Be a parent in a two-parent household (see section (3) of this rule) that does not receive federally-funded child care assistance, and the parents are working at unsubsidized paid employment for a combined average of at least 35 hours per week.

(D) Be a parent in a two-parent household that receives federally-funded child care assistance and the parents are working at unsubsidized paid employment for a combined average of 55 hours per week.

(b) Provide the Department with employer-produced documents of paid, unsubsidized work hours covering a consecutive two-week period that has occurred within the last 60 days.

(c) Anticipate weekly employment hours will remain the same or increase for the reporting period.

(d) Provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department and no later than the last day of the sixth month following the date the client provides the verification of work hours in accordance with subsections (a) and (b) of this section.

(e) Be an eligible adult in a SNAP benefit group (see OAR 461-110-0750) and the parent of an eligible dependent child under age 18 in the same SNAP benefit group.

(f) Not be receiving any Post-TANF, SFPSS, or TANF program benefits in the same month.

(5) To remain eligible for JPI, a client must:

(a) Meet all SNAP eligibility and reporting requirements (see OAR 461-170-0011); and

(b) Meet all requirements in section (4) of this rule at the time of the interim change report and at the time of the recertification of SNAP benefits.

(6) Household income in JPI is calculated in accordance with all SNAP financial rules.

(7) A client is no longer eligible for JPI when it has been determined that the client does not meet federally required participation rates and requirements due to any of the following:

(a) Loss of employment.

(b) A reduction in work hours.

(c) The client no longer has a dependent child under age 18 in their SNAP benefit group.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.049

Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 19-2012(Temp), f. 5-23-12, cert. ef. 5-24-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14

DIVISION 140

GENERAL FINANCIAL ELIGIBILITY

461-140-0010

Assets; Income and Resources

(1) An available asset, either income or a resource, is categorized as either excluded or countable (defined in OAR 461-001-0000).

(2) The availability of resources is covered in OAR 461-140-0020.

(3) The availability of income is covered in OAR 461-140-0040.

(4) Excluded assets are identified in the rules in this chapter (see divisions 140 and 145 in particular) and are not considered when a client's eligibility and benefit level are determined.

(5) In the GA, GAM, OSIP, OSIPM, and QMB programs, an asset excluded pursuant to a rule in OAR chapter 461 remains excluded as long as the asset is used in a manner consistent with the rule that provided the exclusion.

(6) An available asset not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of a client.

(7) An asset may not be counted as a resource and as income in the same month.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08

461-140-0020

Availability of Resources

(1) Except as provided in sections (2) to (4) of this rule:

(a) In the SNAP program, a resource owned jointly by a client and another individual is available in its entirety to the client.

(b) In all other programs, jointly-owned resources are available to members of a financial group (see OAR 461-110-0530) only to the extent they own the resource; except that in the OSIPM and QMB programs, jointly-owned "liquid resources" (including bank and other financial institution accounts) are assumed to be available in their entirety to the client. The client has the right to provide evidence rebutting the ownership assumption. For the purposes of this rule, "liquid resources" means cash as well as other resources that can be converted to cash within 20 business days.

(2) A resource is not available to a client in each of the following situations:

(a) The client has a legal interest in the resource, but the resource is not in the client's possession and the client is unable to gain possession of it. In the REF and REFM programs, if a resource remains in the applicant's country of origin, it is not available.

(b) The resource is jointly owned with others not in the financial group who are unwilling to sell their interest in the resource, and the client's interest is not reasonably saleable.

(c) The client verifiably lacks the competence to gain access to or use the resource and there is no legal representative available to act on the client's behalf.

(d) The client is a victim of domestic violence (see OAR 461-001-0000) and:

(A) Attempting to use the resource would subject the client to risk of domestic violence; or

(B) The client is using the resource to avoid the abusive situation.

(e) Except as provided in OAR 461-145-0540, the resource is included in an irrevocable or restricted trust and may not be used to meet the basic monthly needs of the financial group.

(f) In the OSIP, OSIPM, and QMB programs, there is a legal bar to the sale of the resource.

(3) A resource is not considered available during the time the owner does not know he or she owns the resource.

(4) If a resource is subject to an early withdrawal penalty, the amount of the penalty is not available.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-140-0040

Determining Availability of Income

(1) This rule describes the date income is considered available, what amount of income is considered available, and situations in which income is considered unavailable.

(2) Income is considered available the date it is received or the date a member of the financial group (see OAR 461-110-0530) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

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

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

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

(d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.

(e) A payment due to a member of the financial group, but paid to a third party for a household expense, is considered available when the third party receives the payment.

(f) In prospective budgeting, income is considered available in the month the income is expected to be received (see OAR 461-150-0020).

(g) In the OSIP, OSIPM, and QMB programs, except for self-employment (see OAR 461-145-0915), wages that are earned in one period of time but paid in another are considered available when they are received, such as a teacher who works for nine months but is paid over twelve.

(3) The following income is considered available even if not received:

(a) Deemed income.

(b) In the ERDC, REF, REFM, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security, withheld to repay an overpayment.

(c) In the GA, GAM, OSIPM, and QMB programs, the portion of a payment from an assistance program (such as public assistance, unemployment compensation, or Social Security) withheld to repay an overpayment of the same source:

(A) If withheld prior to July 1, 2014.

(B) If withheld on or after July 1, 2014 and:

(i) No member of the financial group was receiving GA, GAM, OSIP, OSIPM, or QMB during the period the benefit was overpaid; or

(ii) The withheld amount is not excluded under paragraph (5)(e)(A) of this rule.

(d) In the SNAP program, the portion of a payment from the TANF program counted as disqualifying income under OAR 461-145-0105.

(4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions including flexible spending accounts.

(5) The following income is not considered available:

(a) Wages withheld by an employer in violation of the law.

(b) Income received by another individual who does not pay the client his or her share.

(c) Income received by a member of the financial group after the individual has left the household.

(d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is countable (see OAR 461-001-0000):

(A) In the SNAP program, under OAR 461-145-0105.

(B) In the ERDC, REF, REFM, and TANF programs, under subsection (3)(b) of this rule.

(e) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security withheld on or after July 1, 2014 to repay an overpayment from the same source if at least one member of the financial group was receiving GA, GAM, OSIPM, or QMB during the period the benefit was overpaid. The amount considered unavailable cannot exceed the amount of the overpaid benefit previously counted in

determining eligibility (see OAR 461-001-0000) for GA, GAM, OSIP, OSIPM, or QMB.

(B) Monies withheld from or returned to a source of income, when the source is not an assistance program, to repay an overpayment of the same source.

(f) For an individual who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.

(g) Income received by the financial group but intended and used for the care of an individual not in the financial group as follows:

(A) If the income is intended both for an individual in the financial group and an individual not in the financial group, the portion of the income intended for the care of the individual not in the financial group is considered unavailable.

(B) If the portion intended for the care of the individual not in the financial group cannot readily be identified, the income is prorated evenly among the individuals for whom the income is intended. The prorated share intended for the care of the individual not in the financial group is then considered unavailable.

(h) In the ERDC, REF, REFM, SNAP, and TANF programs, income controlled by the client's abuser if the client is a victim of domestic violence (see OAR 461-001-0000), the client's abuser controls the income and will not make the money available to the filing group (see OAR 461-110-0310), and the abuser is not in the client's filing group.

(i) In the OSIP, OSIPM, and QMB programs, unearned income not received because a payment was reduced to cover expenses incurred by a member of the financial group to secure the payment. For example, if a retroactive check is received from a benefit program other than SSI, legal fees connected with the claim are subtracted. Or, if payment is received for damages received as a result of an accident the amount of legal, medical, or other expenses incurred by a member of the financial group to secure the payment are subtracted.

(j) In the REFM program, any income used for medical or medical-related purposes.

(6) The availability of lump-sum income (see OAR 461-001-0000) is covered in OAR 461-140-0120.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.117, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 23-2014(Temp), f. & cert. ef. 9-19-14 thru 3-18-15; SSP 13-2015, f. & cert. ef. 3-19-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-140-0070

Treatment of Excluded Assets

Unless stated otherwise in another rule in this chapter of rules:

(1) Excluded income remains excluded as long as it is kept in a separate account and not commingled with other funds.

(2) Excluded income that is commingled in an account with funds not excluded remains excluded for six months from the date it is commingled, after which it is counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-140-0110**Treatment of Periodic Income**

(1) For SNAP and TANF clients in a filing group (see OAR 461-110-0310) 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) For REF, REFM, SNAP, and TANF clients 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 OSIP-EPD and OSIPM-EPD programs, periodic income received during a certification period (see OAR 461-001-0000) is averaged among the months in the certification period.

(5) In all programs not covered under sections (1) to (4) of this rule, periodic income is counted in the month received.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-140-0120**Availability and Treatment of Lump-Sum Income**

(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 GA, GAM, OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB programs, lump-sum income is treated as follows:

(a) Lump-sum income not excluded is unearned 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:

(A) The first \$20 received in a month;

(B) The income the client turns over to the Department as reimbursement for previous assistance; and

(C) The income the client uses to pay for special need items approved by the Department. Special needs are explained at OAR 461-155-0500 and following.

(5) In the OSIP-EPD and OSIPM-EPD programs, lump-sum income is counted as a resource.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96,

cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-140-0210**Asset Transfer; General Information and Timelines**

(1) OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of an asset on a client.

(2) If an asset is transferred during the periods of time listed in section (4) or (5) of this rule and if the transfer is made in whole or in part for the purpose of establishing or maintaining eligibility for benefits:

(a) In the REFM program, the filing group is disqualified if:

(A) A member of the financial group (see OAR 461-110-0530) transferred the asset; and

(B) The client is an inpatient in a nursing facility, or is an inpatient in a medical institution in which payment for the client is based on a level of care provided in a nursing facility.

(b) In the REF, SNAP, and TANF programs, the filing group is disqualified if:

(A) The asset was a resource; and

(B) A member of the financial group transferred the resource.

(c) In the GA, GAM, OSIP, and OSIPM programs, a client in a nonstandard living arrangement (see OAR 461-001-0000) is disqualified if the client or the spouse of the client transferred the asset.

(3) In all programs except the ERDC program, clients in financial groups whose members transfer an asset covered under section (2) of this rule within the time periods listed in section (4) or (5) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer.

(4) In the REF, REFM, SNAP, and TANF programs, a transfer of an asset may be disqualifying if the transfer occurs:

(a) In the REFM program, during the three years preceding the date of request (see OAR 461-115-0030).

(b) In the SNAP program, during the three months preceding the filing date or during a certification period (see OAR 461-001-0000) if the asset was a resource.

(c) In the REF and TANF programs, during the three years preceding the date of request (see OAR 461-115-0030) if the asset was a resource.

(5) In the GA, GAM, OSIP, and OSIPM programs, for a client in a nonstandard living arrangement, a transfer of an asset may be disqualifying if the transfer occurs:

(a) On or before June 30, 2006 and as described in one of the following paragraphs:

(A) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust (see OAR 461-145-0540(7)(c)).

(B) On or after the date that is 60 months prior to the date of request — for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust (see OAR 461-145-0540(8)(a)).

(C) On or after the date that is 60 months prior to the date of request — when there is a change in circumstances that makes assets in an irrevocable trust unavailable to the client (see OAR 461-145-0540(8)(d)).

(D) On or after the date that is 36 months prior to the date of request — for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust (see OAR 461-145-0540(8)(b) and (c)).

(E) On or after the date that is 36 months prior to the date of request — for other asset transfers made without compensation equal to or greater than fair market value.

(b) On or after:

(A) July 1, 2006; and

(B) The date that is 60 months prior to the date of request.

(6) The duration of the period of disqualification or ineligibility is set out in OAR 461-140-0260 to 461-140-0300.

Stat. Auth.: ORS 411.060, 411.404, 411.710, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.710, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-140-0220

Determining if a Transfer of an Asset is Disqualifying

A transfer of an asset is not disqualifying if the requirements of OAR 461-140-0242 or one of the following sections are met:

(1) The asset was personal belongings as described in OAR 461-145-0390.

(2) The asset was sold or traded:

(a) In all programs except the SNAP program, for compensation equal to or greater than fair market value.

(b) In the SNAP program, for compensation near, equal to or greater than fair market value.

(3) The asset was transferred between members of the same financial group, including members who are ineligible aliens or disqualified people.

(4) The transfer settled a legally enforceable claim against the asset or client.

(5) The amount of the resource was equal to or less than the amount that was excluded at the initial month (see OAR 461-001-0000) of eligibility under OAR 461-160-0855 due to payments received under a qualified partnership policy (see 461-001-0000).

(6) In all programs except the OSIP and OSIPM programs, a court ordered the transfer.

(7) In the OSIP and OSIPM programs, a court ordered the transfer and:

(a) The transfer occurs more than 36 months or 60 months before the date of request (see OAR 461-115-0030), whichever is applicable under OAR 461-140-0210(5); or

(b) There is an institutionalized spouse, and — after performing the calculations required in OAR 461-160-0580(2) — the amount of resources allocated to a community spouse does not exceed the largest of the four amounts set forth in 461-160-0580(2)(f).

(8) The client was a victim of fraud, misrepresentation, or coercion, and legal steps have been taken to recover the asset.

(9) In the OSIP and OSIPM programs, for a client in a non-standard living arrangement (see OAR 461-001-0000), the asset is an annuity purchased on or before December 31, 2005, the client or the spouse of the client is the annuitant, and the entire amount of principal and earned interest is paid in equal installments during the actuarial life expectancy of the annuitant. For purposes of this section, the actuarial life expectancy is established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

(10) In the OSIP and OSIPM programs, the client is in a standard living arrangement (see OAR 461-001-0000).

(11) In the OSIP and OSIPM programs, for a client in a non-standard living arrangement (see OAR 461-001-0000):

(a) The asset is an annuity purchased from January 1, 2006 through June 30, 2006, and the client or the spouse of the client is the annuitant.

(b) The asset is an annuity purchased on or after July 1, 2006, and the annuity meets the requirements of OAR 461-145-0022(10).

Stat. Auth.: ORS 410.070, 411.060, 411.070, 411.816, 412.049, 414.042

Stats. Implemented: ORS 410.070, 411.060, 411.070, 411.708, 411.816, 412.049, 414.025, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 2-2002(Temp), f. & cert. ef. 2-26-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 19-

2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08

461-140-0242

Disqualifying Transfer of Assets Including Home; GA, GAM, OSIP, OSIPM

For a client in a nonstandard living arrangement (see OAR 461-001-0000) in the GA, GAM, OSIP, and OSIPM programs:

(1) For the purposes of this rule:

(a) The definition of “child” in OAR 461-001-0000 does not apply.

(b) “Child” means a natural or adoptive son or daughter who is:

(A) Under age 21; or

(B) Any age and has been determined to meet the blindness criteria of OAR 461-125-0330 or the disability criteria of 461-125-0370.

(2) A transfer of an asset (including a home) by a client or the spouse of the client is a disqualifying transfer unless the requirements of at least one of the following subsections are met:

(a) The transfer was made exclusively for purposes other than establishing eligibility or maintaining benefits.

(b) The title to the asset was transferred to the person’s spouse, the person’s child who is blind or has a disability under the criteria of the Social Security Administration, or another for the sole benefit of the spouse or a child who is blind or has a disability under the criteria of the Social Security Administration, provided that the transfer is arranged in such a way that no individual or entity except this spouse or child can benefit from the asset transferred in any way, whether at the time of transfer or any time in the future. A direct transfer, transfer instrument, or trust that provides for funds or property to pass to a beneficiary who is not the spouse or child who is blind or has a disability under the criteria of the Social Security Administration is not considered to be established for the benefit of one of those individuals. In order for a transfer or a trust to be considered for the sole benefit of one of these individuals, the instrument or document must provide for the spending of the funds involved for the benefit of the individual based on the life expectancy of the individual.

(c) The transfer was made to a trust described in OAR 461-145-0540(9), except that a transfer to a trust under OAR 461-145-0540(9)(a) is disqualifying if the client is age 65 or older.

(d) The transfer was made to a trust described in OAR 461-145-0540(10) established solely for the benefit of an individual under 65 years of age who has a disability that meets the criteria of the Social Security Administration. This subsection applies to all transfers made on or after July 1, 2006.

(e) The transfer is a transfer described in 461-160-0580(2).

(f) The resource is transferred by the community spouse after the Department has determined the community spouse’s resource allowance in accordance with OAR 461-160-0580 and the resource has not been attributed to the institutionalized spouse. Notwithstanding this subsection, a transfer of a resource by a community spouse who is receiving or applying for benefits remains subject to all rules regarding the transfer of an asset by a client.

(3) A transfer of a home by a client or the spouse of the client is a disqualifying transfer unless the title was transferred to the client’s:

(a) Child;

(b) Sibling who has equity interest in the home and was residing in the home for at least one year immediately before the client’s admission to long-term care (see OAR 461-001-0000); or

(c) Natural or adoptive son or daughter who meets the requirements of each of the following paragraphs:

(A) The son or daughter resided with the client in the client’s home continuously for at least two years immediately prior to the client’s admission to long-term care other than an absence from the home that is not intended to, and does not, exceed 30 days.

(B) The son or daughter provides convincing evidence that he or she provided services that permitted the client to reside at home

for at least two years rather than in an institution or long-term care facility.

(C) Without receiving payment from the Department, the son or daughter must have directly provided the services required by paragraph (B) of this subsection as described in both of the following subparagraphs for a total of at least 20 hours per week.

(i) On a daily basis, one or a combination of any of the following activities of daily living, as each sub-subparagraph is further defined at OAR 411-015-0006:

- (I) Eating.
- (II) Dressing/Grooming.
- (III) Bathing/Personal Hygiene.
- (IV) Mobility.
- (V) Elimination.
- (VI) Cognition/Behavior.

(ii) One or a combination of any of the following instrumental activities of daily living, as each sub-subparagraph is further defined at OAR 411-015-0007:

- (I) Housekeeping.
- (II) Laundry.
- (III) Meal Preparation.
- (IV) Medication Management.
- (V) Shopping.
- (VI) Transportation.

(4) Except for a transfer permitted under section (3) of this rule, each of the following subsections applies in determining whether an asset is considered transferred for fair market value:

(a) The compensation received for the asset must be in a tangible form with intrinsic value.

(b) The Department presumes that services provided for free at the time were intended to be provided without compensation, and that a transfer to an individual for services provided for free in the past is a disqualifying transfer of assets. This presumption is rebuttable with convincing evidence. This evidence must also show that there was an express agreement to provide services for compensation at the time the services were provided.

(c) Compensation for services is valued at the average market rate at the time the services were provided, unless the express agreement provides a lower rate.

(5) If a transfer is made for less than fair market value and is not exempt from disqualification under this rule, there is a rebuttable presumption that the asset was transferred for the purpose of establishing or maintaining eligibility and is not exempt under subsection (2)(a) of this rule.

(6) To rebut the presumption in section (5) of this rule, the client must present evidence other than his or her own statement and must provide to the Department the information it requests for the purpose of evaluating the purpose of the transfer. To meet the burden, it is sufficient for the client to show one of the following:

- (a) The decision to make the transfer was not within the client's control;
- (b) At the time of transfer, the client could not reasonably have anticipated applying for medical assistance;
- (c) Unexpected loss of resources or income occurred between the time of transfer and the application for medical assistance;
- (d) Because of other, similarly convincing, circumstances, it appears more likely than not that the transfer was not made, in whole or in part, for the purpose of establishing or maintaining eligibility for benefits.

(7) The fact that a recipient was already eligible for benefits is not sufficient to rebut the presumption in section (5) of this rule because the asset may not always be excluded and if the client had received full compensation for the asset, the compensation received would have been used to determine future eligibility.

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 411.060, 411.710, 414.042

Hist.: AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP

4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08

461-140-0250

Determining The Uncompensated Value of a Transferred Asset

(1) The *uncompensated value* of a disqualifying transfer of an asset is used in OAR 461-140-0260 to 461-140-0300 to calculate the ineligibility period of the financial group.

(2) To determine *uncompensated value*:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The value of the compensation received for the asset is subtracted from the fair market value of the asset. This result is the *uncompensated value*, unless the financial group had countable resources of less than the resource limit at the time of the first transfer. If the financial group had countable resources of less than the resource limit at the time of the first transfer, the remainder is then added to other countable resources, and the amount by which the sum exceeds the resource limit in OAR 461-160-0015 is the *uncompensated value*.

(B) For an annuity, unless the client verifies a lesser amount, the fair market value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

(b) In all other programs, the value of the compensation received for the resource is subtracted from the fair market value of the resource. The remainder is added to the other countable resources at the time of the transfer. The amount by which the sum exceeds the resource limit is the uncompensated value.

(c) The compensation received for a transferred asset includes:

(A) Encumbrances assumed by the buyer; and

(B) Goods or services provided to the client, limited to their true value, if there was a prior agreement to exchange the asset for the goods or services.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.632, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-140-0260

Disqualification Due to a Resource Transfer; SNAP

In the SNAP program:

(1) A financial group disqualified due to the transfer of a resource (described in OAR 461-140-0210 or 461-140-0220) is disqualified from receiving benefits starting on the date of the denial of benefits or on the effective date of the closure. The disqualification applies to each individual in the financial group during the month that the disqualifying transfer of resources occurred.

(2) The duration of the disqualification is based on the amount of *uncompensated value* (see OAR 461-140-0250) as provided in the following chart: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-140-0270

Disqualification Due to An Asset Transfer; REF, REFM, TANF

In the REF, REFM, and TANF programs:

(1) A financial group (see OAR 461-110-0530) in which a member is disqualified due to the transfer of an asset is disqualified for the number of months equal to the uncompensated value (see OAR 461-140-0250) divided by the TANF payment standard (see OAR 461-155-0030).

(2) The disqualification period starts the date the Department imposes the disqualification by terminating benefits for the period calculated above or, in the case of an applicant, by denying benefits for the same period of time measured from the date of application.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.632, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-140-0296

Length of Disqualification Due to An Asset Transfer; GA, GAM, OSIP, OSIPM

(1) This rule applies to clients in the GA, GAM, OSIP, and OSIPM programs who live in a nonstandard living arrangement (see OAR 461-001-0000).

(2) A financial group containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the initial month (see OAR 461-001-0000) is prior to October 1, 1998 — \$2,595.

(b) If the initial month is on or after October 1, 1998 and prior to October 1, 2000 — \$3,320.

(c) If the initial month is on or after October 1, 2000 and prior to October 1, 2002 — \$3,750.

(d) If the initial month is on or after October 1, 2002 and prior to October 1, 2004 — \$4,300.

(e) If the initial month is on or after October 1, 2004 and prior to October 1, 2006 — \$4,700.

(f) If the initial month is on or after October 1, 2006 and prior to October 1, 2008 — \$5,360.

(g) If the initial month is on or after October 1, 2008 and prior to October 1, 2010 — \$6,494.

(h) If the initial month is on or after October 1, 2010 — \$7,663.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(9)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have

accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030) in a nonstandard living arrangement, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a standard living arrangement (see OAR 461-001-0000), the date of request (see OAR 461-115-0030) for long-term care or home and community-based care as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the date of request, the disqualification begins the first date following the date of request that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the uncompensated value as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060, 411.704, 411.706

Stats. Implemented: ORS 411.060, 411.704, 411.706

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03;

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SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-140-0300

Adjustments to the Disqualification for Asset Transfer

(1) The disqualification imposed under OAR 461-140-0260 is not adjusted once applied in the SNAP program.

(2) In all other programs, the disqualification ends if the transfer that caused the disqualification is rescinded. The duration of the disqualification is recalculated if the terms of the transfer are modified.

(3) In the GA, GAM, OSIP, OSIPM, and REFM programs, the Department may waive the disqualification if the disqualification would create an undue hardship on the client. For purposes of this section, the disqualification would create an undue hardship if the requirements of subsections (a) and (b) of this section are met:

(a) The client has no other means for meeting his or her needs. The client has the burden of proving that no other means exist by:

(A) Exploring and pursuing all reasonable means to recover the assets to the satisfaction of the Department, including legal remedies and consultation with an attorney; and

(B) Cooperating with the Department to take action to recover the assets.

(b) The disqualification would deprive the client of:

(A) Medical care such that the client's health or life would be endangered; or

(B) Food, clothing, shelter, or other necessities of life without which the health or life of the client would be endangered.

(4) As authorized by ORS 411.620, the Department retains the authority to bring a civil suit or action to set aside a transfer of assets for less than fair market value and may seek recovery of all costs associated with such an action.

(5) Notwithstanding the granting of an undue hardship waiver under section (3) of this rule, the Department is not precluded from recovering public assistance or medical assistance from any assets in which the client held an interest, or in which the client previously held an interest, at the time the undue hardship waiver was granted.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.632, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

DIVISION 145

TREATMENTS OF SPECIFIC ASSETS

461-145-0001

Adoption Assistance

(1) In all programs except ERDC and SNAP, adoption assistance (see OAR 461-001-0000) is treated as follows:

(a) The portion of adoption assistance that is for the special needs of the child is excluded, including needs such as special diet, special clothing, counseling, and medical costs not covered under Title XIX.

(b) The rest of the adoption assistance is counted as unearned income.

(2) In the ERDC program, adoption assistance is excluded.

(3) In the SNAP program, adoption assistance is counted as unearned income.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060 & 411.122
Hist.: AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 24-2001, f. & cert. ef. 11-1-

01; SSP 16-2004(Temp), f. & cert. ef. 7-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-145-0005

Agent Orange Disability Benefits

(1) For all programs except GA and GAM:

(a) Benefits from the Agent Orange Settlement Fund made by Aetna Life and Casualty for settling Agent Orange disability claims are excluded.

(b) Payments made under the Agent Orange Act of 1991, and issued by the U.S. Treasury through the Department of Veterans' Affairs, are counted as unearned income.

(2) For GA and GAM, all Agent Orange payments are counted as *lump-sum income* (see OAR 461-140-0120).

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049
Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-145-0008

Alaska Permanent Fund Dividend

(1) The Alaska Permanent Fund Dividend is issued annually to eligible Alaskan residents who apply for the payment. Out-of-state residents, except military personnel and students who claim Alaska as their residence, are not eligible unless they resided in Alaska and filed for the payment before leaving the state.

(2) Alaska Permanent Fund Dividend payments are counted as lump-sum income (see OAR 461-140-0120).

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.049
Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-145-0010

Animals

(1) Animals that are kept as pets or raised as food for the filing group (OAR 461-110-0310) are excluded.

(2) The treatment of an animal considered income-producing property (see OAR 461-001-0000) is covered by the income-producing property rules (see OAR 461-145-0250 and 461-145-0252).

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

(a) The fair market value (see OAR 461-001-0000) of animals that are kept or retained for sale or resale is a countable (see OAR 461-001-0000) resource.

(b) If an animal is a source of both food and income for the filing group:

(A) The fair market value of the animal remains excluded.

(B) The proceeds of any sales of the animal or its products are counted as unearned income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0020

Annuities; Not OSIPM

(1) For the purposes of this rule:

(a) "Actuarially sound" means a commercial annuity which pays principal and interest out in equal monthly installments over the actuarial life expectancy of the annuitant. For purposes of this definition, the actuarial life expectancy is established by the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration, and, for transactions (including the purchase of an annuity) occurring on or after July 1, 2008, the payout period must be within three months of the actuarial life expectancy.

(b) For a client, an annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether maintained in the original account or used to purchase an annuity, if the Internal Revenue Service recognizes the account as dedicated to retirement or pension purposes. (The treatment of pension and retirement plans is covered in OAR 461-145-0380)

(c) The definition of “child” in OAR 461-001-0000 does not apply.

(d) “Child” means a biological or adoptive child who is:

(A) Under age 21; or

(B) Any age and meets the Social Security Administration criteria for blindness or disability.

(e) “Commercial annuities” mean contracts or agreements (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.

(2) An annuity is counted as a resource if:

(a) The annuity does not make regular payments for a lifetime or specified number of years; or

(b) The annuity does not qualify for exclusion as a resource under subsection (4)(c) of this rule.

(3) If an annuity is a countable resource under this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular payments already received, minus any early withdrawals, and minus any surrender fees.

(4) Commercial annuities and payments from such annuities are counted as follows:

(a) In all programs except OSIP, OSIPM, and QMB, annuity payments are counted as unearned income to the payee.

(b) In the OSIP and QMB programs:

(A) For a client in a nonstandard living arrangement (see OAR 461-001-0000), if a client or the spouse of a client purchases or transfers an annuity prior to January 1, 2006, the transaction may be subject to the rules on asset transfers at OAR 461-140-0210 and following. For an annuity that is not disqualifying or for a client in a standard living arrangement (see OAR 461-001-0000), the annuity payments are counted as unearned income to the payee.

(B) If a client or the spouse of a client purchases an annuity on or after January 1, 2006, the annuity is counted as a resource unless it is excluded under paragraph (C) of this subsection.

(C) An annuity described in paragraph (B) of this subsection is excluded as a resource if the criteria in subparagraphs (i), (ii), and (iii) of this paragraph are met, except that if an unmarried client is the annuitant, the requirements of subparagraph (iv) of this paragraph must also be met and if a spouse of a client is the annuitant, the requirements of subparagraph (v) of this paragraph must also be met.

(i) The annuity is irrevocable.

(ii) The annuity must be actuarially sound.

(iii) The annuity is issued by a business that is licensed and approved to issue commercial annuities by the state in which the annuity is purchased.

(iv) If an unmarried client is the annuitant, the annuity must specify that upon the death of the client, the first remainder beneficiary is either of the following:

(I) The Department, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(II) The child of the client, if the Department is the next remainder beneficiary (after this child), up to the amount of medical benefits provided on behalf of the client, in the event that the child does not survive the client.

(v) If a spouse of a client is the annuitant, the annuity must specify that, upon the death of the spouse of the client, the first remainder beneficiaries are either of the following:

(I) The client, in the event that the client survives the spouse; and the Department, in the event that the client does not survive the spouse, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(II) A child of the spouse; and the client in the event that this child does not survive the spouse.

(D) If an annuity is excluded under paragraph (C) of this subsection, annuity payments are counted as unearned income to the payee.

(c) For OSIPM, see OAR 461-145-0022.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 17-2008, f. & cert. ef. 7-1-08

461-145-0022

Annuities; OSIPM

In the OSIPM program:

(1) For the purposes of this rule:

(a) “Actuarially sound” means a *commercial annuity* which pays principal and interest out in equal monthly installments over the actuarial life expectancy of the annuitant. For purposes of this definition, the actuarial life expectancy is established by the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration, and, for transactions (including the purchase of an annuity) occurring on or after July 1, 2008, the payout period must be within 12 months of the actuarial life expectancy.

(b) For a client, an annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether maintained in the original account or used to purchase an annuity, if the Internal Revenue Service recognizes the account as dedicated to retirement or pension purposes. (The treatment of pension and retirement plans is covered in OAR 461-145-0380.)

(c) The definition of “child” in OAR 461-001-0000 does not apply.

(d) “Child” means a biological or adoptive child who is:

(A) Under age 21; or

(B) Any age and meets the Social Security Administration criteria for blindness or disability.

(e) “Commercial annuity” means a contract or agreement (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.

(2) An annuity that does not make regular payments for a lifetime or specified number of years is a resource.

(3) When a client applies for medical benefits, both initially and at periodic redetermination (see OAR 461-115-0050 and 461-115-0430), the client must report any annuity owned by the client or a spouse of the client.

(4) By signing the application for assistance, a client and the spouse of a client agree that the Department, by virtue of providing medical assistance, becomes a remainder beneficiary as described in sections (8) and (10) of this rule, under any *commercial annuity* purchased on or after February 8, 2006, unless the annuity is included in the community spouse’s resource allowance under OAR 461-160-0580(2)(c).

(5) If the Department is notified about a *commercial annuity*, the Department will notify the issuer of the annuity about the right of the Department as a preferred remainder beneficiary, as described in sections (8) and (10) of this rule, in the amount of medical assistance provided to the client.

(6) If a client or a spouse of a client purchases or transfers a commercial annuity prior to January 1, 2006, the following applies:

(a) If the client is in a *nonstandard living arrangement* (see OAR 461-001-0000), the transaction may be subject to the rules on asset transfers at OAR 461-140-0210 and following. For an annuity that is not disqualifying or the disqualification period has already been served, the annuity payments are counted as unearned income to the payee.

(b) If the client is in a *standard living arrangement*, the annuity payments are counted as unearned income to the payee.

(7) Sections 8 and 9 of this rule apply to a *commercial annuity* if:

(a) The client is in a *nonstandard living arrangement*, and the client or the spouse of the client purchases an annuity from January 1, 2006 through June 30, 2006; or

(b) The client is in a *standard living arrangement* (see OAR 461-001-0000), and the client or the spouse of a client purchase an annuity on or after January 1, 2006.

(8) A *commercial annuity* covered by section (7) of this rule is counted as a resource unless the annuity is excluded by meeting the following requirements:

(a) If an unmarried client is an annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that upon the death of the client, the first remainder beneficiary is either of the following:

(A) The Department, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(B) The child of the client, if the Department is the next remainder beneficiary (after this child), up to the amount of medical benefits provided on behalf of the client, in the event that the child does not survive the client.

(b) If a spouse of a client is the annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that, upon the death of the spouse of the client, the first remainder beneficiaries are either of the following:

(A) The client, in the event that the client survives the spouse; and the Department, in the event that the client does not survive the spouse, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(B) A child of the spouse; and the client in the event that this child does not survive the spouse.

(c) An annuity covered by section (7) of this rule may not be excluded unless the annuity meets all of the following requirements:

(A) The annuity is irrevocable.

(B) The annuity must be actuarially sound.

(C) The annuity is issued by a business that is licensed and approved to issue a *commercial annuity* by the state in which the annuity is purchased.

(9) If an annuity is excluded as a resource under section (8) of this rule, the annuity payments are counted as unearned income to the payee. If an annuity is a countable resource under section (8) of this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

(10) This section lists the requirements for a *commercial annuity* purchased by the client or the spouse of the client on or after July 1, 2006, when a client is in a *nonstandard living arrangement*, and the annuity names the client or the community spouse as the annuitant. Annuities that meet all of the requirements of this section are counted as unearned income to the payee. The treatment of annuities that do not meet all requirements of this section is covered in sections (11) and (12) of this rule.

(a) The annuity must comply with one of the following paragraphs:

(A) The first remainder beneficiary is the spouse of the client, and in the event that the spouse transfers any of the remainder of the annuity for less than *fair market value* (see OAR 461-001-0000), the Department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.

(B) The first remainder beneficiary is the annuitant's child, and in the event that the child or a representative on behalf of the child transfers any of the remainder of the annuity for less than *fair market value*, the Department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.

(C) The first remainder beneficiary is the Department for up to the total amount of medical benefits paid on behalf of the client.

(b) The annuity must be irrevocable and nonassignable.

(c) The annuity must be *actuarially sound*.

(d) The annuity is issued by a business that is licensed and approved to issue a *commercial annuity* by the state in which the annuity is purchased.

(11) If the client is the annuitant and a *commercial annuity* does not meet all of the requirements of section (10) of this rule, or the spouse of the client is the annuitant and a *commercial annuity* does not meet the requirements of subsection (10)(a) of this rule,

there is a disqualifying transfer of assets under OAR 461-140-0210 and following. See OAR 461-140-0296(6) and (7) for calculation of the disqualification period.

(12) Regardless of whether a *commercial annuity* is a disqualifying transfer of assets, if the annuity does not meet all of the requirements of section (10) of this rule, the annuity is counted as a resource with cash value equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

Stat. Auth.: ORS 411.060, 411.070, 411.083 & 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.083 & 411.404

Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2010, f. & cert. ef. 4-1-10

461-145-0025

Approved Accounts; OSIP-EPD and OSIPM-EPD

(1) All money in an *approved account* (see OAR 461-001-0035) is excluded as a resource during the determination of eligibility.

(2) Only money from the client's own earned income, or money contributed from an employer based on earnings, may be deposited into an approved account.

(3) A retirement-related *approved account* must be set up in a financial institution and must comply with IRS regulations.

(4) An asset purchased with money from an approved account is excluded if the asset is for an employment and independence expense (see OAR 461-001-0035).

(5) If money from the *approved account* is used for a purpose not consistent with the definition of approved account in OAR 461-001-0035, the client will be prohibited from utilizing an approved account for the next 12 months for the purposes of the determination of eligibility.

Stat. Auth.: ORS 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-145-0030

Bank Account

(1) As used in this rule, a bank account includes a money market account and an account in a *financial institution* (see OAR 461-001-0000), except that accounts in financial institutions for stocks, bonds, and certificates of deposit (CDs) are covered in OAR 461-145-0520.

(2) Money in a *bank account* available to one or more members of the financial group (see OAR 461-110-0530) is counted as a resource in accordance with OAR 461-140-0020, unless it is excluded under this rule or another rule in this chapter of rules.

(3) In each of the following situations, money in a bank account is excluded as a resource:

(a) An approved account if excluded under OAR 461-145-0025.

(b) A burial fund if excluded under OAR 461-145-0040.

(c) A designated bank account for an OSIP-IC and OSIPM-IC client if:

(A) The account is designated to receive program benefits by direct deposit through electronic funds transfer; and

(B) The benefit funds are not commingled with other assets of the client.

(d) Funds from excluded income if excluded as a resource under OAR 461-140-0070.

(e) An Individual Education Account if excluded under OAR 461-145-0145.

(f) Money for a plan for self-support if excluded under OAR 461-145-0405.

(g) Proceeds from the sale of a home if excluded as a resource under OAR 461-145-0460.

(4) In the OSIP, OSIPM, and QMB programs, interest and dividends earned on funds in a bank account are excluded as income.

(5) In all programs except the OSIP, OSIPM, and QMB programs, interest and dividends earned on funds in a *bank account* are counted as unearned income, unless the account is excluded as a resource under section (3) of this rule or under another rule in this chapter of rules.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08

461-145-0040

Burial Arrangements and Burial Fund

(1) The following definitions apply to this rule:

(a) A burial arrangement is an agreement with an entity — such as a funeral agreement (which means an arrangement made with a licensed funeral provider), burial insurance, or a burial trust designating a funeral director as the beneficiary that makes allowance for burial costs. A burial arrangement does not include a burial space, which is covered in OAR 461-145-0050, or a burial fund.

(b) A burial fund is an identifiable fund set aside for a client's burial costs. A burial fund does not include a burial space, which is covered in OAR 461-145-0050, or a burial arrangement.

(2) Except as provided in subsection (e) of this section, a burial arrangement is treated as follows:

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, the equity value (defined in OAR 461-001-0000) of one prepaid burial arrangement for each member of the filing group is excluded.

(b) For grandfathered OSIP and OSIPM clients (see OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771), up to \$1,000 in combined equity value of each burial arrangement with a licensed funeral director (plus accrued interest) and life insurance policies are excluded. The amount of combined cash and equity value of all life insurance and burial arrangements that is over \$1,000 is counted as a resource.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, the amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs is excluded.

(d) In all programs not listed in subsection (a) of this section and for OSIP and OSIPM clients not covered by subsection (b) of this section, a burial arrangement is treated in the manner as the program treats a burial fund under section (3) of this rule.

(e) Burial insurance that has cash surrender value is considered life insurance and is treated in accordance with OAR 461-145-0320 and, as applicable, subsection (b) of this section.

(3) A burial fund is treated as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) A burial fund may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds or life insurance policies.

(B) A burial fund is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.

(C) A burial fund may be established if the countable resources of a client exceed allowable limits. A burial fund is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.

(D) The following calculation determines the exclusion for a burial fund:

(i) Up to \$1,500 of a burial fund may be excluded from resources for each of the following:

(I) The client.

(II) The client's spouse.

(ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:

(I) The face value of life insurance policies owned by the client that have already been excluded from resources.

(II) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs.

(E) All interest earned on an excluded burial fund or increases in the value of an excluded burial arrangement if left in the fund is excluded from income.

(b) In all programs not listed in subsection (a) of this section, a burial fund is counted as a resource.

(4) There is no overpayment for the time period during which the burial arrangement or burial fund existed if a client:

(a) Cancels an excluded burial arrangement; or

(b) Uses an excluded burial fund for any purpose other than burial costs.

(5) If an asset originally used as a burial arrangement or burial fund is converted to other uses, the asset is treated under the other applicable rules.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0050

Burial Space and Merchandise

(1) Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased individuals. Burial spaces also include headstones and the opening and closing of the grave.

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, the equity value (see OAR 461-001-0000) of one burial space is excluded as a resource for each member of the financial group (see OAR 461-110-0530).

(b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the equity value of a burial space is excluded as a resource if owned by the client and designated for the client, the spouse (see OAR 461-001-0000) of the client, minor and adult children, siblings, parents, and the spouse of any of these individuals.

(2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The equity value of burial merchandise is excluded as a resource if owned by the client and designated for:

(a) In the ERDC, REF, REFM, SNAP, and TANF programs, a member of the financial group.

(b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the client, the spouse of the client, minor and adult children, siblings, parents, and the spouse of any of these individuals.

Stat. Auth.: ORS 411.060, 411.404, 411.816 & 412.014

Stats. Implemented: ORS 411.060, 411.404, 411.816 & 412.014

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15

461-145-0060

Cash

(1) In the month of receipt, cash is counted as income unless the cash qualifies as excluded income under another rule in Chapter 461.

(2) After the month of receipt, cash (including cash on hand, cash in a safety deposit box, and cash held by others) is counted as a resource, unless the cash qualifies as an excluded resource under another rule in chapter 461.

(3) Foreign currency that can be converted to U.S. currency is treated in the same manner as cash under this rule. The value of foreign currency is its value in U.S. currency, determined by the current exchange rate.

(4) The treatment of a check is based on the source of the funds.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-145-0080

Child Support and Cash Medical Support

(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) "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.

(b) "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 for the TANF program, in the REF, REFM, and TANF programs:

(a) In determining initial eligibility, 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, all child support and cash medical support paid to the financial group are considered countable unearned income. Child support and cash medical support paid by the financial group are not deductible from income.

(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.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 7-2008(Temp), f. & cert. ef. 3-21-08 thru 9-17-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert.

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ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 24-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 31-2012(Temp), f. 9-28-12, cert. ef. 10-1-12 thru 12-28-12; SSP 36-2012, f. 12-28-12, cert. ef. 12-29-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0086

Contributions

(1) *Contributions* are monies, not considered gifts or winnings under OAR 461-145-0210, given voluntarily to a member of a financial group (see OAR 461-110-0530) by someone who is not in the group.

(2) In the SNAP program, contributions are counted as unearned income, except that contributions from charitable sources are excluded if all the following are true:

(a) The contribution is from a private, nonprofit charitable organization.

(b) The contribution is based on need.

(c) The contribution does not exceed \$300 per quarter.

(3) Except as provided in section (2) of this rule, contributions are counted as unearned income.

(4) See OAR 461-145-0280 for the treatment of unearned in-kind income.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-1999, f. & cert. ef. 10-1-99; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; Renumbered from 461-145-0070, SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0088

Corporations and Business Entities; Income and Resources; Not OSIP, OSIPM, or QMB

(1) The value of stocks or other ownership interest in a corporation is a resource.

(2) Assets of the corporation essential to the employment of an individual are excluded. For instance, if the corporation owns equipment used by the individual to produce income for the corporation, the equipment is an excluded resource. If an individual must own stock in the corporation as a condition of working for the corporation, the stock is an excluded resource.

(3) Except as provided in OAR 461-140-0040(2) and section (4) of this rule, income of a corporation is not income of an individual with an ownership interest in the corporation until the income is distributed to the individual.

(4) In the REF, REFM, and SNAP programs:

(a) An expenditure by a business entity or corporation that benefits a principal (see subsection (b) of this section) -- such as a car or housing payment -- is considered available when the expenditure is made.

(b) For purposes of this rule, a "principal" means an individual with significant authority in a business entity or corporation, including a sole proprietor, a self-employed person (see OAR 461-145-0910), a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.

(c) See OAR 461-145-0130, 461-145-0280, and 461-145-0470 for the treatment of earned in-kind income.

(5) In the SNAP program:

(a) Income from business entities and corporations is treated as follows:

(A) If an individual is actively working in a corporation, the income is treated as earned income.

(B) If an individual is actively working in an unincorporated business entity, refer to OAR 461-145-0910 to determine if the income is treated as earned or as self-employment.

(C) If an individual is no longer actively working to produce the income, the income is treated as unearned.

(b) Income from a limited liability company is treated as follows:

(A) If an individual is a member or a manager member, the income is treated as self-employment income.

(B) If an individual is a manager but not a member, the income is treated as earned income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.049

Hist.: AFS 11-1999, f. & cert. ef. 10-1-99; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0089

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

(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) 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) Except as provided in OAR 461-145-0280, 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) 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) Except as provided in OAR 461-145-0280, 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 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) Except as provided for in OAR 461-145-0280, 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.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685, 414.839

Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0090

Disability Benefit

(1) This rule covers public and private disability benefits, except the following:

(a) Agent Orange disability benefits (covered in OAR 461-145-0005).

(b) Radiation Exposure Compensation Act payments (covered in OAR 461-145-0415).

(c) Social security based on disability or SSI (covered in OAR 461-145-0490 and 461-145-0510).

(d) Veterans benefits (covered in OAR 461-145-0580).

(e) Workers compensation (covered in OAR 461-145-0590).

(2) For each disability payment covered under this rule:

(a) If received monthly or more frequently:

(A) In the ERDC, REF, REFM, SNAP, and TANF programs, income from employer-sponsored disability insurance is counted as earned income (see OAR 461-145-0130) if paid to a client who is still employed while recuperating from an illness or injury.

(B) In the OSIP, OSIPM, and QMB programs, income from employer-paid disability insurance is counted as earned income if received within six full calendar months after stopping work.

(C) Except as provided in paragraphs (A) and (B) of this subsection, the payment is counted as unearned income.

(b) All payments other than those in subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0100

Disaster Relief

(1) As used in this rule:

(a) A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood or explosion, which the President determines causes damage of sufficient severity and magnitude.

(b) An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

(c) Disaster Unemployment Assistance is emergency assistance authorized under P.L. 100-107 and received by individuals who are unemployed as a result of a major disaster. Individuals receiving Disaster Unemployment Assistance are not eligible for other unemployment compensation and cannot receive both at the same time. Payments are limited to 26 weeks.

(2) Except as otherwise stated in sections (4) to (8) of this rule and at OAR 461-140-0070, payments described in section (3) of this rule are not counted as income or resources when determining eligibility for or benefit levels.

(3) This rule applies to each of the following payments if precipitated by an emergency or major disaster:

(a) Payments received under the Disaster Relief Act of 1974 (P.L. 93-288, section 312(d)) as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 (P.L. 100-707, Section 105(ii)).

(b) Disaster assistance comparable to subsection (a) of this section provided by States, local governments, and disaster assistance organizations.

(c) Payments from the Federal Emergency Management Agency (FEMA).

(d) Individual and Family Grant Assistance program (IFG).

(e) Grants or loans by the Small Business Administration (SBA).

(f) Voluntary disaster assistance organizations, such as the Red Cross.

(g) Private insurance payments for losses due to a major disaster such as flood, wind, land movement.

(4) Government payments designated for the restoration of a home damaged in a disaster are excluded as income or resources in the month of receipt and as a resource in subsequent months, if the household is subject to a legal sanction if the funds are not used as intended.

(5) Each payment made to farmers under the Disaster Assistance Act of 1988 (P.L. 100-387) for crop losses or failure in a disaster is excluded.

(6) Income received from public and private organizations by individuals working in disaster relief efforts and funded under a National Emergency Grant by WIA title 1 (P.L. 105-220) is excluded. An individual is eligible under this funding source if he or she is a dislocated worker, a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster. Eligibility under this funding source is limited to a period of up to six months per disaster.

(7) Disaster Unemployment Assistance is excluded as both income and a resource.

(8) Payments for flood mitigation received by a homeowner under the National Flood Insurance Act of 1968 as amended by P.L. 109-64, are not counted as income or resources.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

461-145-0105

Disqualifying Income; SNAP

(1) "TANF disqualifying income" is the portion of a TANF grant lost because of a reason listed in section (2) of this rule. It is determined by finding the difference between the TANF cash payment prior to imposition of the reduction and the payment due after the reduction described in section (2) is imposed. The incentive payment authorized by OAR 461-135-0210 is not included in the calculation.

(2) A reduction to a TANF cash payment for any of the following reasons results in TANF disqualifying income:

(a) A failure to pursue assets as required by OAR 461-120-0330;

(b) A failure to help the Department obtain child support from a non-custodial parent as required by OAR 461-120-0340;

(c) A failure to obtain medical coverage as required by OAR 461-120-0345;

(d) A failure to comply with requirements of the employment programs (see OAR 461-130-0330);

(e) A failure to seek treatment for substance abuse or mental health evaluation and treatment under OAR 461-135-0085;

(f) An IPV penalty imposed under OAR 461-195-0621;

(g) Repayment of a client error (see OAR 461-195-0501) overpayment in the TANF program other than the repayment of an overpayment resulting from continuing benefits because of a hearing request;

(h) Repayment of an overpayment in the TANF program that results from an intentional program violation (see OAR 461-195-0601).

(3) Eligibility for and the level of SNAP benefits are determined as if the client is receiving the TANF disqualifying income until:

- (a) The TANF penalty is removed;
- (b) The household becomes ineligible for TANF for a reason not included in section (2) of this rule;
- (c) The overpayment is repaid; or
- (d) The TANF cash or MAA case has been closed for at least 12 months.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07

461-145-0108

Dividends, Interest and Royalties

(1) In the OSIP, OSIPM, and QMB programs, dividends and interest income is treated as unearned income except as follows:

- (a) Interest income and dividends earned on funds in a bank account are excluded as income (see OAR 461-145-0030).
- (b) Interest income and dividends from a trust described in OAR 461-145-0540(9) are excluded.

(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.
- (3) 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.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08

461-145-0110

Domestic Volunteer Services Act (VISTA, RSVP, SCORE, ACE)

In all Department programs covered by Chapter 461 of the Oregon Administrative Rules, with respect to federal programs under the Domestic Volunteers Service Act of 1973 (Pub. L. No. 93 113):

(1) Payments under Title I — VISTA, University Year of Action, and Urban Crime Prevention — are treated as follows:

- (a) In the ERDC, REF, REFM, and TANF programs, these payments are excluded, except that these payments are counted as earned income if the total value of all compensation is equal to or greater than compensation at the state minimum wage.

(b) In the GA and GAM programs, payments are counted as unearned income.

(c) In all programs except the ERDC, GA, GAM, REF, REFM, and TANF programs:

(A) The payments are excluded if the client is receiving Department program benefits when they join the Title I program. The exclusion of payments continues until the client has a break in receiving Department benefits of more than one month.

(B) The payments are counted as earned income for clients who joined the Title I program before applying for Department program benefits.

(2) Payments are excluded for programs under Title II (National Older Americans Volunteer Programs), which include:

- (a) Retired Senior Volunteer Program (RSVP) Title II, Section 201.
- (b) Foster Grandparent Program Title II, Section 211.
- (c) Older American Community programs.
- (d) Senior Companion Program.

(3) Payments are excluded for programs under Title III (National Volunteer Programs to Assist Small Businesses and Promote Volunteer Service by Persons with Business Experience), which include:

(a) Service Corps of Retired Executives (SCORE) Title III, Section 302.

(b) Active Corps of Executives (ACE) Title III, Section 302.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0120

Earned Income; Defined

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, except as provided in OAR 461-145-0280, 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.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0130

Earned Income; Treatment

(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(12)(a)) 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(12)(c)) 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:

(a) 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).

(b) The income a principal (see OAR 461-145-0089) earns working for a corporation is countable as earned income.

(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.

Stat. Auth.: 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

Stats. 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

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1990, f. & cert. ef. 3-2-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 31-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 14-2010(Temp), f. & cert. ef. 5-19-10 thru 11-15-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0140

Earned Income Tax Credit (EITC) and Making Work Pay (MWP) Tax Credit

(1) There are federal and state earned income tax credit (EITC) programs for low-income families.

(a) An EITC may be received in one of two ways:

(A) As one annual payment received at the time of the normal income tax returns.

(B) As an advance in the employee's paycheck.

(b) The EITC is excluded from assets (see OAR 461-001-0000).

(2) The American Recovery and Reinvestment Act (ARRA) of 2009 created the Making Work Pay (MWP) tax credit. This credit applies to tax years 2009 and 2010. An MWP tax credit is received as one annual payment at the time of the normal income tax returns. An MWP tax credit received as a portion of an individual's federal tax return is excluded from assets.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 411.816, 412.049, 414.231

Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.706, 411.816, 412.049, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2010(Temp), f. & cert. ef. 4-22-10 thru 10-19-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 17-2011, f. & cert. ef. 7-1-11

461-145-0143

Economic Recovery Payment

The \$250 economic recovery payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded income in the month of receipt and an excluded resource in the month of receipt and for the following nine months.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.816, 412.049, 414.025, 414.826, 414.831

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.826, 414.831

Hist.: SSP 3-2009(Temp), f. & cert. ef. 3-3-09 thru 8-30-09; SSP 24-2009, f. & cert. ef. 8-31-09; SSP 25-2009(Temp), f. & cert. ef. 9-1-09 thru 2-28-10; SSP

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38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 20-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; Suspended by SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11

461-145-0145

Educational Account

(1) The Individual Education Account (IEA) is an asset accrued by JOBS Plus participants. The IEA is excluded while it accumulates, while it is saved, and when it is withdrawn for educational purposes.

(2) In the SNAP program, the value of funds in a qualified tuition program under section 529 of the Internal Revenue Code or in a Coverdell education savings account is excluded.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; Renumbered from 461-145-0265, SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0150

Educational Income

(1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:

(a) A student at a recognized institution of post-secondary education. Post-secondary education is education offered primarily to individuals 18 years of age or older. Admission may — but does not necessarily — require a high school diploma or equivalent.

(b) A student at a school for individuals with disabilities.

(c) A student in a vocational education program.

(d) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.

(2) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:

(a) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.

(b) The student receives child care benefits — ERDC or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.

(c) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.

(3) The following items are excluded:

(a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).

(b) All income from educational loans.

(4) Except as provided in section (5) of this rule, the cost of the following items from remaining educational funds (including non Title IV work study, externship (see OAR 461-001-0015), graduate assistantship (see OAR 461-001-0015), graduate fellowship (see OAR 461-001-0015) wages, and internship (see OAR 461-001-0015)) is excluded:

(a) Tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.

(b) In all programs except ERDC — dependent care.

(5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who has been approved for PAS pursuant to OAR 461-190-0199, all remaining educational funds, including those funds intended for room and board, are excluded.

(6) In all programs covered by chapter 461 of the Oregon Administrative Rules, after allowing exclusions, the remaining income is treated as follows:

(a) Income received through work study (including work study provided through a VA program or other educational program), fellowships and teaching-assistant positions not excluded by section (3) or (4) of this rule is earned income.

(b) Educational income not covered by subsection (a) of this section is prorated over the period it is intended to cover. If the client has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the client has not received the income at the time the determination is made, the prorated income is counted starting in the month the client expects to receive it.

Stat. Auth.: ORS 411.060, 411.083, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.816, 411.825, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0170

Energy Assistance Payments

(1) In the SNAP program, energy assistance payments issued through the TANF program are considered unearned income.

(2) All energy assistance payments or allowances made under any federal, state, or local law not covered under section (1) — including one-time payments for weatherization, emergency repair, or replacement of heating or cooling devices — are excluded.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-145-0175

Family Abuse Prevention Act (FAPA) Payments

(1) Family Abuse Prevention Act (FAPA) payments are court-ordered payments to victims of domestic violence made under authority of ORS 107.718(1)(h). A payment is considered available when actually received by the victim of abuse.

(2) For all programs covered by this chapter of rules, the first \$2,500 is excluded. The excess above \$2,500 is counted as a resource.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-145-0184

Filipino Veterans Equity Compensation Fund

The Department excludes from income a payment received by a veteran or the spouse of a veteran who served in the military of the Government of the Commonwealth of the Philippines during World War II and made under the Filipino Veterans Equity Compensation Fund authorized by the American Recovery and Reinvestment Act of 2009.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014 & 412.049

Hist.: SSP 5-2010, f. & cert. ef. 4-1-10

461-145-0185

Floating Homes and Houseboats

(1) Floating homes and houseboats are treated in the same manner as real property under OAR 461-145-0420.

(2) Floating homes and houseboats are subject to OAR 461-145-0220 and 461-145-0250 if applicable.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Chapter 461 Department of Human Services, Self-Sufficiency Programs

Stats. Implemented: ORS 411.060, 411.816, 412.049
Hist.: SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-145-0190

Food Programs Other Than the SNAP program

(1) In all programs, the following benefits are excluded:

(a) Benefits from the Special Supplemental Food Program for Women, Infants and Children (WIC), including demonstration projects (coupons exchanged for food at farmers markets) under the Hunger Prevention Act of 1988 (Pub. L. 100-435, section 501).

(b) The value of supplemental food assistance provided to children under the Child Nutrition Act of 1966 (Pub. L. 89-642) and the National School Lunch Act (Pub. L. 79-396, section 12(e), and Pub. L. 94-105).

(c) Nutrition Assistance program benefits received in Puerto Rico, American Samoa or the Commonwealth of the Northern Mariana Islands.

(d) The value of supplemental food assistance provided for seniors in the Senior Farm Direct Nutrition Program (see OAR 333-052-0030) funded by grants from the United States Department of Agriculture.

(2) In all programs except SNAP, benefits from the tribal Food Distribution Program are excluded. In the SNAP program, these benefits are subject to OAR 461-165-0030.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-145-0200

Foster Care Payments and Guardianship Assistance Benefits

Payments for foster care and benefits from the Guardianship Assistance program are treated as follows:

(1) In all programs except the ERDC and SNAP programs:

(a) If the provider of foster care or the guardian is in the financial group (see OAR 461-110-0530), the payments or benefits are treated as earned income except that it is excluded in the following situations:

(A) The amount the placement agency identifies as being for room and board, clothing, or personal incidental needs (including recreational expenses) of the foster care client is excluded.

(B) The amount designated for special need items of the foster care client is excluded.

(b) If the provider of foster care or the guardian is not in the financial group, the payments or benefits are excluded.

(2) In the ERDC program, the payments or benefits are excluded.

(3) In the SNAP program:

(a) The payments or benefits are counted as unearned income only if the person in foster care or under guardianship is in the filing group (see OAR 461-110-0370). The payments or benefits are excluded if the person in foster care or under guardianship is in the household group (see OAR 461-110-0210) but not in the filing group.

(b) The payments or benefits are counted as self-employment income if the provider of foster care and the person receiving the care or the guardian and the person under guardianship are not in the same household group.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.050, 409.610, 411.060, 411.070, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 2-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15

461-145-0210

Gifts and Winnings

(1) For the purposes of this rule:

(a) Gifts are items given to or received by an individual on or for a special occasion, such as a holiday, birthday, graduation, or wedding. Gifts are not given or received on a regular basis.

(b) Winnings are prizes given to an individual in a contest, game of chance, or similar event. Winnings in the form of money may be distributed periodically (e.g., monthly) or in a lump-sum.

(2) In the ERDC program, gifts and winnings are excluded.

(3) In all programs except the ERDC program:

(a) In-kind gifts and winnings are treated according to the rule applicable to the specific type of asset.

(b) Gifts and winnings in the form of money are treated as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(c) Gifts and winnings in the form of a gift card or certificate are excluded.

(4) For employment-related items, see OAR 461-145-0130.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 10-2007, f. & cert. ef. 10-1-07

461-145-0220

Home

(1) Home defined: A home is the place where the filing group (see OAR 461-110-0310) lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:

(a) Land on which the home is built and contiguous property.

(A) In all programs except the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, property must meet all the following criteria to be considered contiguous property:

(i) It must not be separated from the land on which the home is built by land owned by people outside the financial group (see OAR 461-110-0530).

(ii) It must not be separated by a public right-of-way, such as a road.

(iii) It must be property that cannot be sold separately from the home.

(B) In the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, contiguous property is property not separated from the land on which the home is built by land owned by people outside the financial group.

(b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.

(2) Exclusion of home and other property:

(a) For an individual who has an initial month (see OAR 461-001-0000) of long-term care on or after January 1, 2006:

(A) For purposes of this subsection:

(i) The definition of "child" in OAR 461-001-0000 does not apply.

(ii) "Child" means a biological or adoptive child who is:

(I) Under age 21; or

(II) Any age and meets the Social Security Administration criteria for blindness or disability.

(B) The equity value of a home is excluded if the requirements of at least one of the following subparagraphs are met:

(i) The "child" of the individual occupies the home.

(ii) The spouse (see OAR 461-001-0000) of the individual occupies the home.

(iii) The equity in the home is \$552,000 or less, and the requirements of at least one of the following sub-subparagraphs are met:

(I) The individual occupies the home.

(II) The home equity is excluded under OAR 461-145-0250.

(III) The home is listed for sale per OAR 461-145-0420.

(iv) Notwithstanding OAR 461-120-0330, the equity in the home is more than \$552,000 and the individual is unable legally to convert the equity value in the home to cash.

(b) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.

(c) In the SNAP program, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they

live is excluded, and the land they intend to build on is treated as real property in accordance with OAR 461 145 0420.

(3) Exclusion during temporary absence: If the value of a home is excluded under section (2) of this rule, the value of this home remains excluded in each of the following situations:

(a) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, during the temporary absence of all members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.

(b) In the SNAP program, when the financial group is absent because of employment or training for future employment.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, when the individual is absent to receive care in a medical institution, if one of the following is true:

(A) The absent individual has provided evidence that the individual will return to the home. The evidence must reflect the subjective intent of the individual, regardless of the individual's medical condition. A written statement from a competent individual is sufficient to prove the intent.

(B) The home remains occupied by the individual's spouse, child, or a relative dependent on the individual for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.

(d) In the REF, REFM, and TANF programs, when all members of the filing group are absent because:

(A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or

(B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 4-2015, f. & cert. ef. 1-1-15

461-145-0230

Housing and Urban Development

(1) Payments from HUD made to a third party in behalf of the client are treated as follows:

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income.

(b) In the EA, ERDC, GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, the payments are excluded.

(2) HUD payments made directly to a member of the financial group, except Youthbuild Program payments and Family Investment Centers payments, are treated as follows:

(a) In the REF, REFM, and TANF programs, the payment is used to determine shelter-in-kind income. If the payments are made in a lump sum, the lump sum is unearned income.

(b) In the EA program, the payment is unearned income.

(c) In the ERDC, GA, GAM, OSIP, OSIPM, and QMB programs, the payments are excluded.

(d) In the SNAP program, payments for utilities are excluded. Other payments are unearned income.

(3) Youthbuild Program payments are treated as follows:

(a) In the TANF program, if the Youthbuild Program participant is a dependent child in the filing group or a caretaker relative age 19 or younger, the payments are excluded. If the participant is a caretaker relative over age 19, the payments are treated as follows:

(A) Incentive payments that are reimbursements for specific expenses not covered by program benefits, for instance transportation and school supplies, are excluded.

(B) On-the-job training (OJT) and work experience payments are earned income.

(C) The bonus payment (the incentive payment for attendance) is unearned income.

(b) In the ERDC program, Youthbuild payments are earned income.

(c) In the SNAP program, payments to clients under the age of 19 years who are under the control of an adult member of the filing group are excluded. Other Youthbuild payments are earned income.

(4) Escrow accounts established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD are excluded.

(5) Payments related to family investment centers issued under the Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, sec. 515, 104 Stat. 4196 (1990), are treated as follows:

(a) Wages are earned income, and stipends are unearned income.

(b) Service payments for items such as child care, basic education, literacy, or computer skills training are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0240

Income-Producing Sales Contract

(1) The equity value (see OAR 461-001-0000) of an income-producing sales contract is treated as follows:

(a) In the GA, GAM, OSIPM, and QMB programs for contracts originating on or after October 1, 2012:

(A) Except for a contract resulting from the sale of a home, that is treated in accordance with paragraph (B) of this subsection, it is a countable (see OAR 461-001-0000) resource valued at the outstanding principal balance of the contract unless the individual provides convincing evidence of a lower cash value or there is a legal bar to the sale of the contract. If there is a legal bar to the sale of the contract, the equity value of the contract is a transfer of assets (OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client) for less than fair market value (see OAR 461-001-0000).

(B) The equity value of a contract resulting from the sale of a home is excluded if the entire principal portion of the payments received from the contract is used to purchase another home within three calendar months of receipt of the payments. Otherwise the equity value is treated in accordance with paragraph (A) of this subsection.

(b) Except as provided in subsection (a) of this section, it is excluded.

(2) In all programs, income received from a sales contract is treated as provided in OAR 461-145-0460.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 414.042 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 414.042 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12

461-145-0250

Income-Producing Property; Not OSIP, OSIPM, or QMB

(1) Income from income producing property (see OAR 461-001-0000) is counted as follows:

(a) If a member of the financial group (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).

(b) If a member of the financial group does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920. In the SNAP program, if the financial group owns more than one property, the exclusions for one property may not be used to offset income from a different property.

(2) The equity value (see OAR 461-001-0000) of income-producing property is treated as follows:

(a) In the EA and ERDC programs, it is excluded.

(b) In the SNAP program, it is counted as a resource except to the extent described in each of the following situations:

(A) If the property produces an annual countable (see OAR 461-001-0000) income similar to other properties in the community with comparable market value, the equity value of the property is excluded.

(B) The property is excluded under OAR 461-145-0600.

(C) The equity value of income-producing livestock, poultry, and other animals is excluded.

(D) If selling the resource would produce a net gain to the financial group of less than \$1,500, the equity value is excluded.

(c) In the GA and GAM programs, it is counted as a resource, except:

(A) If the non-business income-producing property (including houses or apartments for rent and land other than the primary residence) produces an annual countable income of at least six percent of its equity value, the value of the property is excluded up to a maximum of \$6,000.

(B) If the annual countable income drops below six percent of the non-business property's equity value due to circumstances beyond the client's control, the client has up to 24 months from the end of the tax year in which the earnings dropped below six percent to meet the six percent requirement.

(C) The total equity value is excluded (regardless of value or rate of return) if either all the requirements of subparagraphs (i), (ii), and (iii) or subparagraph (iv) or subparagraph (v) are met:

(i) The property is used in the trade or business of a member of the financial group, as evidenced by two or more of the following:

(I) The good-faith intention of making a profit.

(II) Its use is part of a regular occupation for a member of the financial group.

(III) Holding out to others as being engaged in the selling of goods or services.

(IV) Continuity of operations, repetition of transactions, or regularity of activities.

(ii) The property is in current use or, if not in use for reasons beyond the control of the financial group, there must be a reasonable expectation that the required use will resume.

(iii) The property is essential to the client's self-support.

(iv) The government has issued a permit to the client to engage in income-producing activity on or with the property.

(v) Personal property is used by an employee for work.

(d) In the REF, REFM, and TANF programs, it is counted as a resource, except that in the TANF program, it is excluded for a self-employed client participating in the microenterprise (see OAR 461-001-0025) component of the JOBS program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2013, f. & cert. ef.

7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0252

Income-Producing Property; OSIP, OSIPM, and QMB

(1) This rule does not apply to personal or real property used in self-employment. See OAR 461-145-0915 to determine what constitutes self-employment and OAR 461-145-0600 to determine how to treat real or personal property used in self-employment.

(2) Income from income-producing property (see OAR 461-001-0000) is counted as follows:

(a) If a member of the financial group (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0915, 461-145-0920, and 461-145-0930).

(b) If a member of the financial group does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920.

(3) The equity value (see OAR 461-001-0000) of income-producing property is counted as a resource, subject to the following exceptions:

(a) Except as provided in OAR 461-140-0020.

(b) If the income-producing property, including houses or apartments for rent and land other than the primary residence, produces an annual countable (see OAR 461-001-0000) income of at least six percent of its equity value, the value of the property is excluded up to a maximum of \$6,000.

(c) If the annual countable income drops below six percent of the equity value of the income-producing property due to circumstances beyond the client's control, the client has up to 24 months from the end of the tax year in which the earnings dropped below six percent to meet the six percent requirement.

(d) The equity value of government permits representing authority granted by a government agency to engage in income-producing activity is excluded in its entirety.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.400, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.400, 411.404, 411.706, 413.085, 414.685

Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0255

Independent Living Program Subsidies

(1) Independent Living Program subsidies are payments and services provided to children 16 to 20 years of age by the Department. The Independent Living Program (including the Chaffee Housing program) is described at OAR 413-030-0400 to 0455. The subsidies help the children live independently when their foster care payments are discontinued upon reaching 16 years of age.

(2) For all programs except EA and SNAP, the subsidies are excluded from income.

(3) For the EA and SNAP programs, the subsidies are countable unearned income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03

461-145-0260

Indian (Native American) Benefits

(1) The following Indian (Native American) benefits are excluded:

(a) Indian lands held jointly with the tribe, or land that cannot be sold without the approval of the Bureau of Indian Affairs (BIA).

(b) Payments to Puyallup Tribe members from the trust funds established under Public Law 101-41.

(c) Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436).

(2) Payments from the BIA are treated as follows:

(a) In the SNAP program, payments from the General Assistance program are counted as unearned income.

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(b) In all programs except the SNAP program, payments from the General Assistance program are excluded.

(c) The treatment of educational income is covered by OAR 461-145-0150.

(3) In the GA and GAM programs, Indian benefits described in sections (4) to (12) of this rule are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120), unless the client verifies that such benefits are excluded by the public law for state-funded programs.

(4) In all programs except the GA and GAM programs, payments under Public Law 92-203 (Alaska Native Claim Settlement Act) are treated as follows:

(a) In the SNAP program, the entire payment is excluded.

(b) In all programs except the GA, GAM, and SNAP programs:

(A) Only the tax-exempt portion of the payment is excluded.

(B) The remainder of the payment is counted as unearned income.

(5) In all programs except the GA and GAM programs, the following types of distributions provided under Public Law 100-241 (Alaska Native Claim Settlement Act) are excluded:

(a) Stock.

(b) A partnership interest.

(c) Land or interest in land.

(d) An interest in a settlement trust.

(e) The first \$2,000 of each per-capita payment per year for each member of the *financial group* (see OAR 461-110-0530) who receives the payment. The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as lump-sum income (see 461-140-0120).

(6) In all programs except the GA and GAM programs, the Department excludes Indian benefit payments when federal law requires an exclusion. These include payments under each of the following federal laws:

(a) The Aroostook Band of Micmacs under Public Law 102-171.

(b) Blackfeet, Cherokee, Cheyenne, Chippewa, and Sioux tribes under Public Law 94-114, when the payment is from sub-marginal land held in trust by the United States.

(c) Blackfeet Indians under Public Law 92-254.

(d) Grand River Ottawa Indians under Public Law 94-540.

(e) Hopi or Navajo Indians under Public Law 93-531.

(f) Passamaquoddy Tribe and Penobscott Nation, including the Holton Band of Maliseet Indians, under the Indian Claims Settlement Act (Public Law 96-420).

(g) Umpqua Tribe Cow Creek Band under Public Law 100-139.

(h) Yakima Nation Confederated Tribes and Bands of the Mescalero Reservation Apache Tribe under Public Law 95-433.

(7) In all programs except the GA, GAM, and SNAP programs, payments received from trust or restricted lands under Public Law 93-134, Public Law 97-458, and Public Law 103-66 are excluded. In the SNAP program, payments received from trust or restricted lands under 25 USC 1408 (Public Law 93-134, Public Law 97-458, and Public Law 103-66) are treated as follows:

(a) Excluded as a resource.

(b) The first \$2,000 of each per-capita payment per year for each member of the *financial group* (see OAR 461-110-0530) who receives the payment is excluded as income.

(c) The amount over \$2,000 per year paid to any member of the *financial group* is counted as *periodic income* (see OAR 461-140-0110).

(8) In all programs except the GA and GAM programs, payments to Seminole Tribe members under Public Law 101-277 are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the *financial group* who receives the payment.

(b) The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(9) In all programs except the GA and GAM programs, payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla under Public Law 91-259 are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the *financial group* who receives the payment.

(b) The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(10) In all programs except the GA and GAM programs, payments for assets held in trust to the Sac and Fox Tribe of Oklahoma and Sac and Fox Tribe of the Mississippi in Iowa by the Indian Claims Commission under Public Law 94-189, Section 6 (The Sac and Fox Indian Claims Agreement) are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the *financial group* who receives the payment.

(b) The amount over \$2,000 paid to each member of the *financial group* who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(11) In all programs except the GA and GAM programs, payments from judgment funds held in trust by the U.S. Secretary of the Interior under Public Law 98-64 are excluded.

(12) In all programs except the GA and GAM programs, Indian Child Welfare payments under Public Law 95-608 are excluded.

(13) Tribal payments for child care are treated as follows:

(a) Provider-direct payments are counted as the provider's earned income.

(b) All client-direct payments are excluded.

(14) In each program, any Indian benefit payments distributed by the tribe and not excluded for that program by public law are counted as unearned income.

(15) Payments in the tribal-TANF program are counted in the same manner as TANF program payments under OAR 461-145-0410.

(16) In the GA, GAM, OSIP, OSIPM, and QMB programs, Individual Indian Money (IIM) accounts are treated as follows:

(a) For a restricted account:

(A) A deposit required by the BIA is excluded as income and as a resource.

(B) A deposit not required by the BIA is counted or excluded as income in accordance with this chapter of rules based on the source of the deposit. The deposit is excluded as a resource.

(C) A withdrawal is treated in accordance with this chapter of rules based on the source of the funds withdrawn. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.

(b) For an unrestricted account: Deposits and withdrawals are treated in accordance with this chapter of rules based on the source of the deposit or withdrawal. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.

(17) Payments from the Tribal Trust Accounting and Management Lawsuits under Public Law 111-291 (section 101) are treated as follows:

(a) The payments are excluded as income in the month of receipt.

(b) The payments are excluded as a resource for the 12 calendar months following the receipt of the payment as long as they are not commingled with other funds.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.816, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 28-2012(Temp), f. & cert. ef. 8-

7-12 thru 2-3-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13

461-145-0261

Individual Development Account (IDA)

(1) An Individual Development Account (IDA) is a trust-like savings account established under P.L. 105-285 designed to help low-income individuals save for specified purposes. The individual makes deposits from his or her earnings, and these are matched by a combination of government and private-sector funds.

(2) For eligibility determinations in all programs:

(a) Except for SNAP, deposits from the account holder's earnings are excluded from gross earned income. For SNAP, the deposit remains countable earned income.

(b) Matching deposits from government and private-sector funds are excluded from income.

(c) The IDA savings account is excluded from resources.

(d) Interest earned by the IDA savings account is excluded from income.

(3) For client liability calculations (see OAR 461-160-0610), all income deposited into an IDA is counted as earned income.

(4) If a client makes an emergency withdrawal from the account, that income is counted as lump-sum income.

Stat. Auth.: ORS 411.060, 411.700, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.014, 412.049, 414.042

Hist.: SSP 17-2008, f. & cert. ef. 7-1-08

461-145-0270

Inheritance

(1) An inheritance may be received in the form of monies, property, or other assets.

(2) An inheritance is treated as follows:

(a) In all programs except the ERDC program:

(A) A noncash inheritance is treated according to the policy for the specific type of asset inherited.

(B) A cash inheritance is counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(b) In the ERDC program, an inheritance is excluded.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.105, 411.111, 411.730, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 10-2007, f. & cert. ef. 10-1-07

461-145-0280

In-Kind Income

(1) This rule does not apply to shelter-in-kind income (see OAR 461-145-0470).

(2) In all programs except the REF, REFM, and TANF programs, in-kind income (see OAR 461-001-0000) that is earned is treated according to the administrative rules on earned income (such as OAR 461-145-0130).

(3) In all programs except the REF, REFM, and TANF programs, in-kind income that is unearned (except third-party payments) is treated as follows:

(a) Income from court-ordered community service work or bartering is excluded. Bartering is the exchange of goods of equal value.

(b) Items such as cars and furniture are treated according to the administrative rule for the specific type of asset.

(4) In the REF, REFM, and TANF programs, in-kind income (except unearned third-party payments) is excluded.

(5) In the SNAP program, except for child support (see OAR 461-145-0080) and an expenditure by a business entity that benefits a principal (see OAR 461-145-0088), in-kind income is excluded.

(6) Unearned third-party payments are treated as follows:

(a) Payments made to a third party that should legally be paid directly to a member of the financial group (see OAR 461-110-0530) are counted as unearned income.

(b) Payments made to a third party that the payee is not legally obligated to pay directly to a member of the financial group and

that the financial group does not have the option of taking as cash, and payments made by the noncustodial parent to a third party that are court-ordered are treated as follows:

(A) In the SNAP program, these third-party payments are excluded unless they are transitional housing payments for the homeless.

(B) In the REF, REFM, and TANF programs, except for payments designated as child support (see OAR 461-145-0080), these third-party payments are excluded.

(C) In all programs except the REF, REFM, SNAP, and TANF programs, these third-party payments are excluded.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-9; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-145-0290

Job Corps

Job Corps payments are treated as follows:

(1) A living allowance payment is counted as earned income.

(2) A readjustment allowance payment is treated as follows:

(a) In all programs except the SNAP program, this payment is counted as earned income.

(b) In the SNAP program, this payment is counted as lump-sum income (see OAR 461-140-0120).

(3) A support service payment for an item already covered by the benefits of the benefit group (see OAR 461-110-0750) is counted as unearned income. All other support service payments (including clothing allowances) are excluded.

(4) A reimbursement (see OAR 461-001-0000) is treated as provided in OAR 461-145-0440.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-1990(Temp), f. & cert. ef. 1-16-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 131991, f. & cert. ef. 7-1-91; SSP 10-2007, f. & cert. ef. 10-1-07

461-145-0300

Workforce Investment Act

Payments to clients made under Title I-B of the Workforce Investment Act (see OAR 589-020-0210) are treated as provided in this rule.

(1) Need-based (stipend) payments are treated as unearned income except as follows:

(a) In the SNAP program, these payments are excluded.

(b) The payments are excluded for REF, REFM, and TANF clients under the age of 19 years, or under the age of 20 years if the client is a caretaker relative (see OAR 461-001-0000).

(2) OJT (On-the-Job Training) and work experience payments are counted as earned income, except as follows:

(a) The payments are excluded for REF, REFM, and TANF clients under the age of 18 years, or under the age of 20 years if the client is a caretaker relative (see OAR 461-001-0000);

(b) The payments are excluded for an SNAP client who is:

(A) Under the age of 19 years and under the control of an adult member of the filing group (see OAR 461-110-0370); or

(B) Receiving OJT payments under the Summer Youth Employment and Training Program.

(3) A support service payment for an item already covered by the benefits of the benefit group (see OAR 461-110-0750) is treated as unearned income. All other support service payments (including lunch payments and clothing allowances) are excluded.

(4) A reimbursement (see OAR 461-001-0000) is treated as provided in OAR 461-145-0440.

[Publication.: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0310

Life Estate

(1) For all programs except OSIP, OSIPM, and QMB, if a financial group (see OAR 461-110-0530) is living in real property (see OAR 461-001-0000) while a member holds a life estate (see OAR 461-001-0000) in this property, the property is treated as a home (see OAR 461-145-0220). In all other situations, a life estate is treated as real property (see OAR 461-145-0420).

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

(a) For purposes of this section and section (3) of this rule, the value of the rights conferred by the life estate is established by the Life Estate and Remainder Interest Table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(A).

(b) A life estate owned by a member of the financial group is treated as follows:

(A) If a member of the financial group is living on the property the value of the life estate is treated as a home (see OAR 461-145-0220).

(B) If a member of the financial group is not living on the property the value of the life estate is counted as a resource. The life estate is considered unavailable if other parties with an ownership interest in the property refuse to sell their interest or refuse to purchase the life estate interest in the property.

(3) In the OSIP and OSIPM programs:

(a) A transfer for less than fair market value (see OAR 461-001-0000) in which a member of the financial group retains a life estate is a disqualifying transfer. A transfer is considered for less than fair market value if the fair market value of the transferred resource on the day prior to the transfer is greater than the sum of the value of the rights conferred by the life estate plus the compensation received for the transfer.

(b) If a member of the financial group purchases a life estate interest in the home of another individual on or after July 1, 2006, the purchase is considered a transfer of resources unless the client resides in this home for at least 12 consecutive months after the date of the purchase. The value of the transfer for a client who does not reside in the home for at least 12 consecutive months is calculated by using the purchase price of the *life estate*.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08

461-145-0320

Life Insurance

(1) Benefits paid on a life insurance policy are counted as unearned income in the month received and a resource if retained into the following month. The Department counts benefits as received when the insured individual dies or when the insured individual is eligible for and receives accelerated payments before death, such as when the insured individual has a terminal illness. When the payment is a lump sum due to the death of the insured individual a deduction is allowed, not to exceed \$1,500, for the cost of the deceased individual's last illness and burial if these costs were not otherwise insured.

(2) Burial insurance that has cash surrender value is treated in the same manner that this rule treats life insurance.

(3) The value of a life insurance policy is treated as follows:

(a) All term insurance that has no cash surrender value is excluded.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, the cash surrender value of the life insurance policy is excluded.

(c) In the GA, GAM, OSIPM, and QMB programs:

(A) For the purposes of this subsection, the following definitions apply:

(i) "Cash surrender value" means the equity that the policy acquires over time.

(ii) "Dividend" means a payment of surplus company earnings from the insurer.

(iii) "Dividend accumulation" means a dividend left with the insurer to accumulate interest that may be withdrawn without affecting the policy's face value or cash surrender value.

(iv) "Dividend addition" means the amount of insurance purchased with a dividend that increases the policy's death benefit and cash surrender value.

(v) "Face value" means the amount of the death benefit contracted for at the time the policy was purchased and does not include a dividend addition added after purchase of the policy.

(vi) "Viatical settlement" means an agreement allowing a third party to acquire a life insurance policy from a terminally ill individual at an agreed upon percentage of the life insurance policy's face value.

(B) The cash surrender value of life insurance policies owned by the financial group (see 461-110-0530) is excluded if the total face value of all policies for the insured individual is less than or equal to \$1,500. If the total face value of all policies for the insured individual is more than \$1,500, the entire cash surrender value is counted as a resource to the owner of the policy. The total face value does not include any dividend addition. A dividend accumulation must count as a resource even if the face value of the policy that generated the dividend accumulation is excluded.

(C) The cash surrender value of a policy acquired through a viatical settlement is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10

461-145-0330

Loans and Interest on Loans

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.

(2) For purposes of this rule:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) "Bona fide loan agreement" means an agreement that:

(i) Is enforceable under state law;

(ii) Is in effect at the time the cash proceeds are provided to the borrower; and

(iii) Includes an obligation to repay and a feasible repayment plan.

(B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.

(b) In all programs:

(A) "Reverse-annuity mortgage" means a contract with a financial institution (see OAR 461-001-0000) under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.

(B) The proceeds of a home equity loan or reverse-annuity mortgage are considered loans.

(3) For payments that a member of the financial group (see OAR 461-110-0530) receives as a borrower to be treated as a loan:

(a) In the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, there must be an oral or written loan agreement, and this

agreement must state when repayment of the loan is due to the lender.

(b) In programs other than the GA, GAM, OSIP, OSIPM, QMB, and SNAP programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and state when repayment of the loan is due to the lender.

(4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.

(5) When a member of a financial group receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:

(a) In all programs, educational loans are treated according to OAR 461-145-0150.

(b) In the ERDC, REF, REFM, SNAP, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) If the loan is a bona fide loan agreement, the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.

(6) In the OSIPM program, if a client or a spouse of a client uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:

(a) In a transaction occurring on or after July 1, 2006:

(A) The balance of the payments owing to the client or spouse of the client is a transfer of assets for less than fair market value, unless all of the following requirements are met:

(i) The total value of the transaction is being repaid to the client or spouse of the client within three months of the client's life expectancy per that person's actuarial life expectancy as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

(ii) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.

(iii) The contract is not cancelled upon the death of the individual receiving the payments under this transaction.

(B) If the loan results in a disqualification and the disqualification period has been served, payments against the principal and interest are treated as unearned income.

(b) In a transaction occurring before July 1, 2006 or for a transaction occurring on or after July 1, 2006 that does not result in a disqualification in subsection (a) of this section, the loan is treated as follows:

(A) Interest income is treated as unearned income.

(B) The loan is counted as a resource if:

(i) The financial group includes a client in a nonstandard living arrangement (see OAR 461-001-0000) and the client's spouse;

(ii) The transaction is on or after the date of the first continuous period of care (see OAR 461-001-0030); and

(iii) The amount of the loan plus other resources transferred exceeds the largest amount in OAR 461-160-0580(2)(f).

(C) For all other loans:

(i) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource valued at the outstanding principal balance.

(ii) If the loan does not qualify under subparagraph (i) of this paragraph, payments against the principal are counted as unearned income.

(7) In the GA, GAM, OSIP, and QMB programs:

(a) Interest income is treated as unearned income.

(b) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource of the lender valued at the outstanding principal balance.

(c) If the loan does not qualify under subsection (b) of this section, the payments against the principal are counted as income to the lender.

(8) In all programs other than the GA, GAM, OSIP, OSIPM, and QMB programs:

(a) The interest payment is counted as unearned income.

(b) The payment of principal is excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; [SSP 20-2009(Temp), f. & cert. ef. 7-29-09 thru 1-25-10; Suspended by SSP 26-2009(Temp), f. & cert. ef. 9-1-09 thru 1-25-10]; Administrative correction 2-19-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0340

Lodger Income

(1) Lodger income is the amount a lodger (see OAR 461-001-0000) pays the filing group for room (rent) and board (meals).

(2) Lodger income is counted as follows:

(a) In the REF, REFM, and TANF programs, lodger income not excluded under OAR 461-155-0350 is treated as self employment income.

(b) In all programs except the GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs, lodger income is treated as self-employment income.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, lodger income is the amount a member of the household group (see OAR 461-110-0210) pays for the use of a room (rent) with or without board (meals) and is treated as unearned income:

(A) Lodger income may be reduced by the following allowable expenses such as:

(i) Interest and escrow portions of a mortgage payment (at the point the payment is made to the mortgage holder);

(ii) If the home is rented or leased by the financial group, the monthly rent payment;

(iii) Real estate insurance;

(iv) Repairs (such as a minor correction to an existing structure);

(v) Property taxes (if not included in an escrow portion of the mortgage payment);

(vi) Lawn care;

(vii) Snow removal;

(viii) Advertising for tenants; and

(ix) Utilities.

(B) Allowable expenses are prorated based on the number of rooms designated for rent compared to the number of rooms in the house (excluding bathrooms). Basements and attics are counted only if they have been converted to living spaces (such as recreation rooms).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14

461-145-0343

Manufactured and Mobile Homes

(1) Manufactured and mobile homes are treated in the same manner as real property under OAR 461-145-0420.

(2) Manufactured and mobile homes are subject to OAR 461-145-0220 and OAR 461-145-0250 if applicable.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-145-0345

Military Income

Military income (pay and allowances of a member of a uniformed service) is treated as follows:

(1) Except as provided in section (2) of this rule:

(a) Military income is counted as earned income of the member's financial group (see OAR 461-110-0530), except as provided in subsection (b) of this section.

(b) The portion of military pay and allowances available to the financial group is counted as unearned income if the member is not included in the filing group.

(2) In the SNAP program:

(a) The military income available to the financial group is counted as unearned income if the member is not in the filing group (see OAR 461-110-0370), except as provided in subsections (b) and (c) of this section.

(b) The additional pay received by a member during deployment to an area described in 37 U.S.C. 310 (hostile fire or imminent danger pay) is excluded.

(c) Any amount reduced from basic pay for the GI Bill is excluded.

(d) The following process is used to determine the countable (see OAR 461-001-0000) amount after the exclusions under subsections (b) and (c) of this section:

(A) The amount of the group's military income immediately prior to the deployment is determined.

(B) The current amount of the group's military income is determined.

(C) The lesser of the two amounts in paragraphs (A) and (B) of this subsection is countable income.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2007, f. & cert. ef. 10-1-07

461-145-0360

Motor Vehicle

(1) The value of disability-related apparatus, optional equipment, or low mileage is not considered in determining the fair market value (see OAR 461-001-0000) of an automobile, truck, or van. The fair market value of an automobile, truck, or van is presumed to be the "average trade-in value" established in the National Automobile Dealers Association's (NADA) Used Car Guide. If the vehicle is not listed in the NADA Used Car Guide, the "average trade-in value" established in the Kelley Blue Book is used. If the vehicle is not listed in the NADA Used Car Guide and Kelley Blue Book, the "average trade-in value" established in a similar publication is used. A client may rebut the presumption with a statement from a car dealer, mechanic, or other reliable source. If the vehicle is not listed in the NADA Used Car Guide, Kelley Blue Book, and a similar publication, the estimate of the value by the client may be accepted unless it appears questionable, in which case additional evidence of the value is required.

(2) Some programs permit an exclusion for a portion of the equity value (see OAR 461-001-0000) for any licensed and unlicensed motor vehicles owned by the financial group:

(a) In the REF, REFM, SNAP, and TANF programs, this exclusion is up to \$10,000.

(b) In the GA and GAM programs, this exclusion is up to \$4,500.

(c) Any remaining equity in that vehicle and the total equity value of all other vehicles is counted as a resource.

(3) In the EA and ERDC programs, all motor vehicles are excluded.

(4) In the OSIPM and QMB programs:

(a) The total value of a vehicle selected by the financial group is excluded if it is used for transportation of the client or a member of the client's household.

(b) The total equity value of any vehicle not excluded under subsection (a) of this section and all other vehicles is counted as a resource.

(5) In the OSIP-EPD and OSIPM-EPD programs, if a vehicle was purchased as an employment and independence expense (see OAR 461-001-0035) or with moneys from an approved account (see OAR 461-001-0035), the total value of the vehicle is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.700, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0365

National and Community Services Trust Act (NCSTA), including AmeriCorps (other than AmeriCorps VISTA)

(1) The National and Community Service Trust Act (NCSTA) of 1993 (P.L. 103-82) amended the National and Community Service Act (NCSA) of 1990 (P.L. 101-610) that established a Corporation for National and Community Service. The Corporation administers national service programs providing living allowance, educational award, child care and in-kind benefits.

(2) NCSTA payments, including AmeriCorps (except AmeriCorps VISTA which is covered in OAR 461-145-0110) are treated as follows:

(a) The living allowance (stipend benefits) is excluded.

(b) Educational award and in-kind benefits are treated as follows:

(A) In the GA program, these benefits are treated according to the policy for the specific type of asset.

(B) In all programs except GA, these benefits are excluded.

(c) The child care allowance is treated as follows:

(A) For clients in the ERDC, REF, and TANF programs who are eligible for direct provider payment of child care, the allowance is counted as unearned income. The allowance is excluded only if the client already pays the provider. The provider may be paid for only the costs not covered by the allowance.

(B) For clients in the SNAP program who are receiving a child care deduction, the deduction is allowed only for the costs not covered by the allowance.

(C) In all other programs, the allowance is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0370

Older Americans Act

(1) In all programs except the SNAP, GA, and GAM programs, benefits under Title III of the Older Americans Act of 1965 (Nutrition Program for the Elderly) are excluded. In the SNAP, GA, and GAM programs, these benefits are considered unearned income.

(2) In all programs except the SNAP program:

(a) A wage or salary paid to persons 55 years of age and older under Title V of the Older Americans Act of 1965 (Experience Works, American Association of Retired Persons, National Association for Spanish-Speaking Elderly, National Council on Aging, National Council on Black Aging, National Council of Senior Citizens, National Urban League, U.S. Forest Service) is considered earned income.

(b) Payments to an individual 55 years of age and older under Title V of the Older Americans Act of 1965 that are not a wage or salary are excluded.

(3) In the SNAP program, payments under Title V of the Older Americans Act of 1965 are excluded.

Stat. Auth.: ORS 411.060 & 411.816
 Stats. Implemented: ORS 411.060 & 411.816
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 8-2008, f. & cert. ef. 4-1-08

461-145-0380

Pension and Retirement Plans

- (1) Pension and retirement plans include the following:
 - (a) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum or monthly payments.
 - (b) Benefits that employees are allowed to withdraw when they leave a job before retirement.
 - (c) The following retirement plans if purchased by an individual with funds from the plans authorized by section 401 of the Internal Revenue Code of 1986:
 - (A) Traditional Defined-Benefit Plan.
 - (B) Cash Balance Plan.
 - (C) Employee Stock Ownership Plan.
 - (D) Keogh Plan.
 - (E) Money Purchase Pension Plan.
 - (F) Profit-Sharing Plan.
 - (G) Simple 401(k).
 - (H) 401(k).
 - (d) Retirement plans purchased by an individual with funds from plans authorized by section 403 of the Internal Revenue Code of 1986 at subsections (a) or (b).
 - (e) The following retirement plans and annuities if purchased by an individual with funds from the plans authorized by section 408 of the Internal Revenue Code of 1986 at subsections (a), (b), (c), (k), (p), or (q), or at section 408A:
 - (A) Individual Retirement Annuity.
 - (B) Individual Retirement Account (IRA).
 - (C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.
 - (D) Accounts established by employers and certain associations of employees.
 - (E) Simplified Employee Pension (SEP).
 - (F) Simple Individual Retirement Account (Simple-IRA).
 - (G) Roth IRA.
 - (f) The following retirement plans offered by governments, nonprofit organizations, or unions:
 - (A) 457(b) Plan.
 - (B) 501(c)(18) Plan.
 - (C) Federal Thrift Savings Plan under 5 USC 8439.
 - (g) In all programs except the OSIP, OSIPM, and QMB programs, an annuity purchased by an individual with funds from a plan authorized under subsection (c), (d), or (f) of this section.
 - (2) An annuity purchased by the spouse (see OAR 461-001-0000) of an individual with funds from a retirement plan described in subsection (1)(e) of this rule is not considered a retirement plan and is treated in accordance with 461-145-0020 and 461-145-0022.
 - (3) Benefits an individual receives from pension and retirement plans are treated as follows:
 - (a) Monthly payments are counted as unearned income.
 - (b) All payments not covered by subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).
 - (4) In the OSIP, OSIPM, and QMB programs:
 - (a) Except for an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule:
 - (A) The equity value (see OAR 461-001-0000) of a pension or retirement plan is excluded as a resource if the individual is eligible for monthly or periodic payments under the terms of the plan and has applied for those payments. When an individual is permitted to choose or change a payment option, the individual must select the option that:
 - (i) Provides payments commencing on the earliest possible date; and
 - (ii) Completes payments within the actuarial life expectancy, as published in the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration, of the individual.

(B) The equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allows an individual to withdraw funds, minus any penalty for withdrawal, is counted as a resource.

(b) The equity value of an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule is excluded as a resource if it meets the payout requirements of OAR 461-145-0022(10)(c). Otherwise, the equity value is counted as a resource.

(c) For an individual in a standard living arrangement (see OAR 461-001-0000), pension and retirement plans owned by a non-applying spouse are excluded. Dividends and interest earned on pension funds owned by a non-applying spouse are excluded as income.

(5) In the SNAP program, the value of retirement accounts identified in sections 401(a), 403(a), 403(b), 408, 408(k), 408(p), 408A, 457(b), or 501(c)(18) of the Internal Revenue Code, or in a Federal Thrift Savings Plan account are excluded resources.

(6) In all programs except the OSIP, OSIPM, QMB, and SNAP programs, the equity value of a pension and retirement plan that allows an individual to withdraw funds before retirement, minus any penalty for early withdrawal, is counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; [SSP 21-2009(Temp), f. & cert. ef. 7-29-09 thru 1-25-10; Suspended by SSP 26-2009(Temp), f. & cert. ef. 9-1-09 thru 1-25-10]; Administrative correction 2-19-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14

461-145-0390

Personal Belongings

Personal belongings are such items as household furnishings, clothing, heirlooms, keepsakes, and hobby equipment. For all programs, the value of personal belongings is excluded.

Stat. Auth.: ORS 411.060, 411.816 & 412.049
 Stats. Implemented: ORS 411.060, 411.816 & 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 4-2005, f. & cert. ef. 4-1-05

461-145-0400

Personal Injury Settlement

(1) For all programs except the ERDC program, personal injury settlements are treated as follows:

(a) Monthly payments are counted as unearned income.

(b) For clients in all programs except grandfathered clients in the OSIP and OSIPM programs (see OAR 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771), all other payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(c) For grandfathered OSIP and OSIPM clients, the balance from personal injury claims after the Department's lien is satisfied is counted as lump-sum income (see OAR 461-140-0120). If the lien was not filed due to the recipient's failure to notify the Department of the claim, the payment is counted as unearned income.

(2) In the ERDC program, personal injury settlements are excluded.

(3) This rule does not apply to workers compensation payments (see OAR 461-145-0590 for the treatment of those payments).

Stat. Auth.: ORS 411.060, 411.730, 411.816, 412.049
 Stats. Implemented: ORS 411.060, 411.700, 411.730, 411.816, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 10-2007, f. & cert. ef. 10-1-07

461-145-0405

Plan for Self-support

(1) This rule covers two types of plans for self support.

(a) A plan for self support approved by the Social Security Administration.

(b) A plan for self support approved by the Department (see OAR 461-135-0708).

(2) Assets listed in an approved plan for self support are excluded.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 10-2002, f. & cert. ef. 7-1-02; Renumbered from 461-140-0420, SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10

461-145-0410

Program Benefits

(1) EA and TA-DVS payments are treated as follows:

(a) In the ERDC and SNAP programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.

(b) In all programs except the ERDC and SNAP programs, these payments are excluded.

(2) Payments from ERDC and TANF child care are excluded unless the client is the provider.

(3) Payments from the GAM, OCCS medical programs, OSIPM, QMB, and REFM programs are excluded.

(4) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.

(5) SNAP payments are treated as follows:

(a) The value of an SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310).

(b) OFSET service payments are excluded.

(6) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs are treated as follows:

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see OAR 461-001-0000).

(b) In the ERDC program:

(A) Post-TANF payments are excluded.

(B) All other payments are counted as unearned income.

(c) In the SNAP program:

(A) These payments are treated as unearned income.

(B) An amount received as a late processing payment is treated as lump-sum income.

(C) Payments made to correct an underpayment are treated as lump-sum income.

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.

(d) In all programs except the EA, ERDC, and SNAP programs:

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.

(B) Payments made to correct an underpayment are excluded.

(e) In all programs:

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.

(C) REF and TANF client incentive payments are treated as follows:

(i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0310) is counted as unearned income.

(ii) Progress and outcome incentive payments other than in-kind payments are counted as lump-sum income (see OAR 461-140-0120). All other incentives are excluded.

(7) Payments from OSIP-IC are treated as follows:

(a) In the SNAP program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.

(b) In all other programs, these payments and funds held in a contingency fund are excluded.

(8) Pre-TANF program payments are treated as follows:

(a) In the SNAP program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.

(b) In all programs except the SNAP program, these payments are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 5-1991, f. & cert. ef. 2-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1992(Temp), f. 7-31-92, cert. ef. 8-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0415

Radiation Exposure Compensation Act

Radiation Exposure Compensation Act payments are issued to compensate individuals for injuries or deaths resulting from exposure to radiation from nuclear testing or uranium mining. For all programs, these payments are excluded.

Stat. Auth. ORS 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.700, 411.816, 414.042, 412.049

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; SSP 10-2007, f. & cert. ef. 10-1-07

461-145-0420

Real Property

(1) For purposes of this rule, manufactured and mobile homes and floating homes and houseboats are treated in the same manner as real property.

(2) The applicant has the burden of proof of establishing the fair market value (see OAR 461-001-0000) of real property (see OAR 461-001-0000). Fair market value may be established by any methodology determined to accurately reflect the fair market value of the real property, including the provision of an appraisal or comparative market analysis performed by an impartial individual who is certified or licensed in the applicable jurisdiction.

(3) Real property that is not income-producing or the home of the financial group (see OAR 461-110-0530) is treated as follows:

(a) In the REF, REFM, and TANF programs, the equity value (see OAR 461-001-0000) of all real property that is not excluded under a TANF Interim Assistance agreement is counted as a resource.

(b) In the EA and ERDC programs, real property is excluded.

(c) In the SNAP program, real property is treated as follows:

(A) The equity value of real property is excluded if the financial group is making a good-faith effort to sell the real property at a fair market price.

(B) The equity value of the real property is counted as a resource if the financial group refuses to make a good-faith effort to sell.

(C) The resource is excluded if selling the resource would produce a net gain to the financial group of less than \$1,500.

(d) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The equity value of real property that was the home of the financial group is excluded if the financial group is making a good-

faith effort to sell the real property at a reasonable price, unless the equity value in the home makes the client ineligible under OAR 461-145-0220(2)(a).

(B) The equity value of all other real property is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price. The equity value is counted after the real property is excluded for nine months unless the failure to sell it is for reasons beyond the reasonable control of the financial group.

(4) The treatment of real property that is income producing is covered in OAR 461-145-0250.

(5) The treatment of the home of the financial group is covered in OAR 461-145-0220.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0430

Real Property Excluded under an Interim Assistance Agreement; REF, REFM, TANF

(1) This rule applies in the REF, REFM, and TANF programs when the equity value (see OAR 461-001-0000) of real property puts the financial group (see OAR 461-110-0530) over the resource limit.

(2) When section (1) of this rule applies:

(a) The equity value of real property is excluded for a maximum of nine months if the financial group signs and complies with the terms of the program's Interim Assistance Agreement.

(b) After the ninth month, the equity value of the property is counted as a resource.

(3) To comply with the terms of the program's Interim Assistance Agreement, the financial group must agree to do all the following:

(a) Make a good-faith effort to sell the property; and

(b) Use the proceeds from the sale of the property to reimburse the Department for all benefits paid under the terms of the program's Interim Assistance Agreement. The reimbursement will not exceed the net proceeds of the sale of the property.

(4) The amount of benefits paid while the financial group has excess real property is an overpayment if the financial group fails to notify the Department that the group has the property.

(5) The amount of the benefits paid while the financial group has excess real property is an overpayment up to the net proceeds of the sale of the property if the property sells and the financial group does not repay the Department under the terms of the program's Interim Assistance Agreement.

Stat. Auth.: ORS 411.060, 411.700, 412.049

Stats. Implemented: ORS 411.060, 411.700, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0433

Recreational Vehicles

(1) For purposes of this rule, a recreational vehicle includes both of the following subsections:

(a) A vehicle (a means for carrying or transporting something) if:

(A) The vehicle is used primarily for amusement and not for day-to-day transportation; and

(B) The vehicle cannot be licensed as a motor vehicle for use on a public highway (even if the vehicle is registered or licensed as a non-motor vehicle).

(b) An ATV, boat, camper, dune buggy, plane, snowmobile, and trailer, unless the item qualifies as a capital asset (see OAR 461-001-0000) or as work-related equipment (see OAR 461-145-0600).

(2) Except as provided in section (4) of this rule, for all programs except ERDC, the equity value (see OAR 461-001-0000) of a recreational vehicle is counted as a resource.

(3) In the ERDC program, the value of a recreational vehicle is excluded.

(4) In the SNAP program only, the equity value of a recreational vehicle is excluded if selling the vehicle would produce a net gain to the financial group of less than \$1,500.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0435

Refunds

(1) Exclude the following refunds in the month they are received:

(a) Refunds on merchandise that was purchased or received as a gift;

(b) Refunds of utility and rental deposits.

(2) Count any refund amount remaining after the month of receipt as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.706, 411.816

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91

461-145-0440

Reimbursement

(1) For the treatment of USDA meal reimbursements, see OAR 461-145-0570.

(2) The reimbursement (see OAR 461-001-0000) of a business expense for an individual who is self-employed is treated as self-employment income (see OAR 461-145-0910, 461-145-0915, and 461-145-0920).

(3) Except as provided in sections (1) and (2) of this rule, a reimbursement is treated as follows:

(a) In the ERDC program, a reimbursement is excluded, except that a reimbursement for child care from a source outside of the Department is counted as unearned income.

(b) In the SNAP program:

(A) A reimbursement in the form of money for a normal household living expense, such as rent or payment on a home loan, personal clothing, or food eaten at home, is unearned income.

(B) Any other reimbursement is treated as follows:

(i) An in-kind reimbursement is excluded.

(ii) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.

(iii) A reimbursement is counted as periodic income (see OAR 461-001-0000 and 461-140-0110) or lump sum income (see OAR 461-001-0000 and 461-140-0120) if not used for the identified expense.

(iv) A reimbursement for an item already covered by the benefits of the benefit group (see OAR 461-110-0750) is counted as periodic income or lump sum income.

(c) In the SNAP program, an expenditure by a business entity that benefits a principal (see OAR 461-145-0088) is counted as earned income (see OAR 461-145-0130).

(d) In all programs except the ERDC and SNAP programs, a reimbursement is treated as follows:

(A) An in-kind reimbursement is excluded.

(B) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.

(C) A reimbursement is counted as periodic income or lump sum income if not used for the identified expense.

(D) A reimbursement for an item already covered by the benefits of the benefit group is counted as periodic income or lump sum income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0455

Resettlement and Placement (R&P) Grants

(1) A Reception and Placement (R&P) grant is a payment made by the United States Department of State through a national refugee resettlement agency to a local resettlement agency, refugee sponsor, or refugee. An R&P grant is provided to the resettlement agency to help with the costs of initial resettlement of a refugee in the United States. The resettlement agency provides a part of this grant to the refugee, usually in the refugee's first month after arrival, for the refugee's initial resettlement needs and not for ongoing living expenses.

(2) In the ERDC, REF, REFM, and TANF programs, an R&P grant is excluded from consideration as income or a resource for purposes of determining program eligibility or benefit levels, except as provided in OAR 461-140-0070.

(3) In the SNAP program, any amount paid directly to a SNAP household from an R&P grant is counted as unearned income. For an in-kind payment made directly to a provider by the resettlement agency, see OAR 461-145-0280.

(4) In the GA, OSIP, OSIPM, and QMB programs, an R&P grant determined to be available to the refugee case is considered unearned income.

Stat. Auth.: ORS 411.060, 411.116, 411.404, 411.816, 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.404, 411.816, 412.006, 412.049
 Hist.: AFS 1-2001(Temp), f. & cert. ef. 1-30-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0460

Sale of a Resource

(1) In the ERDC program, all proceeds from the sale of a resource are excluded as income and as a resource.

(2) In the REF, REFM, and TANF programs:

(a) Proceeds from the sale of an excluded resource to the extent reinvested in another excluded resource are excluded as income and as a resource.

(b) All proceeds from the sale of the resource are counted as unearned income, unless excluded in subsection (a) of this section.

(3) In all programs except the ERDC, REF, REFM, and TANF programs, proceeds from the sale of a resource are treated as follows:

(a) Proceeds from the sale of a resource (other than a home) received on a monthly or other periodic basis are counted as unearned income, except that in the OSIPM and QMB programs for a sale originating on or after October 1, 2012 all proceeds that are principal are counted as a resource.

(b) Proceeds from the sale of a resource (other than a home) received on a lump sum basis are treated as follows, except that in the OSIPM and QMB programs for a sale originating on or after October 1, 2012 all proceeds that are interest are treated as unearned income:

(A) If the proceeds are from the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the remainder is counted as a resource.

(B) The proceeds from all other sales are counted as a resource. If the proceeds put the benefit group (see OAR 461-110-0750) over the resource limit, the proceeds are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

(c) Proceeds from the sale of the home of the financial group (see OAR 461-110-0530) are excluded for three months if the financial group intends to use the proceeds (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded

proceeds in the GA, GAM, OSIP, and QMB programs) to buy another home, except as follows:

(A) In the GA, GAM, OSIPM (except for clients eligible under OAR 461-135-0771), and QMB programs for a home sold on or after October 1, 2012:

(i) Principal payments, including lump-sum payments, are excluded for three full calendar months from the date of receipt if the financial group intends to use the proceeds to buy another home or for associated costs including:

(I) Downpayments;

(II) Settlement costs;

(III) Loan processing fees and points;

(IV) Moving expenses;

(V) Necessary repairs to or replacement of the new home's structure or fixtures (including roof, furnace, plumbing, built-in appliances) that are identified and documented prior to occupancy; and

(VI) Mortgage payments.

(ii) For the purposes of subparagraph (i) of this paragraph, funds that are obligated by contract during these three full calendar months are also excluded.

(iii) Interest payments are counted as unearned income.

(B) For clients eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the financial group's home, if the financial group intends to use them to buy another home (subparagraphs (A)(i) and (A)(ii) of this subsection set out the scope of use of excluded proceeds), are treated as follows:

(i) For a home sold prior to October 1, 2012, the proceeds are excluded for 12 full calendar months.

(ii) For a home sold on or after October 1, 2012:

(I) Principal payments, including lump-sum payments, are excluded for 12 full calendar months from the date of receipt.

(II) Interest payments are counted as unearned income.

(d) The proceeds from the sale of a home that are not reinvested in another home are counted as a resource, except as follows:

(A) In the GA and GAM programs, if the proceeds put the benefit group over the resource limit, they are counted as periodic or lump sum income.

(B) In the GA, GAM, OSIPM, and QMB programs for a home sold on or after October 1, 2012:

(i) Principal is counted as a resource, except that in the GA and GAM programs, if the proceeds put the benefit group over the resource limit, they are counted as periodic or lump sum income.

(ii) Interest payments are counted as unearned income.

(C) In the SNAP program, the proceeds are treated as lump-sum income (see OAR 461-001-0000) under OAR 461-140-0120.

(e) In the SNAP program:

(A) Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.

(B) If a self-employed client sells a work-related asset, including equipment and inventory, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).

(4) Costs of the type excluded under OAR 461-145-0920 are subtracted from proceeds counted as income under this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 24-2014, f. & cert. ef. 10-1-14

461-145-0470

Shelter-in-Kind Income

(1) Except as provided in section (2) of this rule:

(a) In the ERDC, GA, and GAM programs, shelter-in-kind (see OAR 461-001-0000) payments are excluded, except earned shelter-in-kind is not excluded in the ERDC program.

(b) In the REF, REFM, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), shelter-in-kind payments are excluded.

(c) In the SNAP program, shelter-in-kind housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for shelter costs (see OAR 461-001-0000) of a principal (see OAR 461-145-0088) is counted as income.

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

(A) Except as provided in paragraph (C) of this subsection, unearned shelter-in-kind income is treated as follows:

(i) Shelter-in-kind payments from HUD are excluded.

(ii) If the shelter-in-kind includes all housing and utilities, the Shelter-in-Kind Standard for total shelter (see OAR 461-155-0300) is counted as unearned income.

(iii) If the shelter-in-kind includes all housing (utilities are not included), the Shelter-in-Kind Standard for housing costs (see OAR 461-155-0300) is counted as unearned income.

(B) Except as provided in paragraph (C) of this subsection, earned shelter-in-kind income is treated as follows:

(i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the shelter-in-kind income is treated in accordance with paragraph (A) of this subsection.

(ii) Except as provided in subparagraph (i) of this paragraph, the fair market value (see OAR 461-001-0000) of the shelter is counted as earned income.

(C) In the OSIP and OSIPM programs, when a prorated standard is used (see OAR 461-155-0020 and OAR 461-155-0250) shelter-in-kind income is excluded.

(2) A payment for which there is a legal obligation to pay to a member of the financial group (see OAR 461-110-0530) that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049
 Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.014, 412.049, 414.042
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0490

Social Security Benefits

Except for SSI (see OAR 461-145-0510) and death benefits remaining after burial costs (see OAR 461-145-0500), Social Security benefits are treated as follows:

(1) Monthly payments are counted as unearned income.

(2) Except as provided in sections (3) and (4) of this rule, all payments other than monthly payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(3) In the SNAP program, the representative payee fee paid by a client who is required by the Social Security Administration to receive payments through a representative payee is excluded. The amount of the exclusion is limited to the amount authorized by the Social Security Administration.

(4) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB programs:

(a) For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.

(b) Retroactive payments are counted as unearned income in the month of receipt except as provided in subsection (c) of this section.

(c) When retroactive payments are made through the representative payee of an individual who is required to have a representative payee because of drug addiction or alcoholism, the retroactive payments may be required to be made in installments. If the payments are made in installments, the total of the benefits to be paid in installments is considered unearned income in the month in which the first installment is made.

(d) Any remaining amount from a retroactive payment after the month of receipt is counted as an excluded resource for nine calendar months following the month in which the payment is received. After the nine-month period, any remaining amount is a countable resource.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049 & 414.042
 Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.014, 412.049 & 414.042
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0500

Social Security Death Benefit

Money remaining from Social Security death benefits after the payment of burial costs is treated as lump-sum income (see OAR 461-140-0120).

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 8-2008, f. & cert. ef. 4-1-08

461-145-0505

Spousal Support

(1) In the ERDC, OSIP, OSIPM, QMB, and REFM programs, spousal support (see OAR 461-001-0000) is counted as unearned income.

(2) In the SNAP program:

(a) Payments made by the separated or divorced spouse to a third party for the benefit of the financial group are excluded, except that a payment for which there is a legal obligation to pay to a member of the financial group that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.

(b) Spousal support is counted as unearned income.

(3) In the REF and TANF programs:

(a) For clients not working under a TANF JOBS Plus agreement, if the spousal support is received by the Department or Department of Justice and if continued receipt of the spousal support is reasonably anticipated, the spousal support is --

(A) Counted as unearned income when determining eligibility; and

(B) Excluded when determining the REF and TANF benefit amount.

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

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

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

(C) Spousal support received by the client is counted as unearned income when calculating the wage supplement.

(c) Other spousal support payments (not covered under subsections (a) or (b) of this section) are counted as unearned income.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
 Hist.: AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

**461-145-0510
SSI**

(1) In the ERDC, GA, GAM, and SNAP programs, if a client is required by law to receive an SSI benefit through a representative payee, the representative's fee is excluded.

(2) In the ERDC, GA, and GAM programs:

(a) A monthly SSI payment is counted as unearned income.

(b) Lump-sum SSI payments are counted according to OAR 461-140-0120.

(3) In the REF, REFM, and TANF programs:

(a) SSI monthly and lump-sum payments are excluded if the recipient will be removed from the financial group (see OAR 461-110-0530) the month following receipt of the payment.

(b) An SSI lump-sum payment is excluded in the month received and the next month.

(4) In the SNAP program:

(a) A monthly SSI payment is counted as unearned income.

(b) A lump-sum SSI payment is excluded.

(5) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB programs, a retroactive SSI payment is excluded for nine months after the month of receipt. After the nine-month period, any remaining amount is a countable (see OAR 461-001-0000) resource. For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0520

Stocks, Bonds and Other Securities

(1) Except as provided in section (2) of this rule, the *equity value* (see OAR 461-001-0000) of mutual funds, and securities, including stocks, bonds, educational savings bonds, and certificates of deposit (CDs), is counted as a resource.

(2) The value of a savings bond issued by the United States Department of the Treasury is excluded during the minimum retention period if the owner has received a denial of a request for a hardship waiver based on financial need.

(3) Interest and dividends on items covered by section (1) of this rule are treated as provided in OAR 461-145-0108.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 8-2008, f. & cert. ef. 4-1-08

461-145-0525

Strikers' Benefits

Strikers' benefits are payments made to strikers by their union, whether or not based on the striker's participation in picketing. Treat these payments as follows:

(1) For all programs except SNAP, count as unearned income.

(2) For SNAP, exclude these payments, unless the striker's current income is higher than their pre-strike income. If so, count as unearned income.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.630 & 411.816
Stats. Implemented: ORS 411.700 & 411.816
Hist.: AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95

461-145-0530

Tax Refund

Income tax refunds and property tax refunds, including Elderly Rental Assistance (ERA), are counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 9-

2008(Temp), f. & cert. ef. 4-1-08 thru 9-26-08; Administrative correction 10-21-08; SSP 4-2011(Temp), f. & cert. ef. 2-4-11 thru 8-3-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15

461-145-0540

Trusts

(1) This section applies to all trust funds (see OAR 461-001-0000) in the REF, REFM, SNAP, and TANF programs. It also applies to GA, GAM, OSIP, OSIPM, and QMB for trust funds established before October 1, 1993:

(a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group (see OAR 461-110-0530) for items covered by program benefits. In the OSIP, OSIPM, and QMB programs, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether the trustee exercises his or her authority to actually make a distribution.

(b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.

(c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.

(2) In the ERDC program, all trust funds are excluded.

(3) In the OSIP, OSIPM, and QMB programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (4) to (10) of this rule. In the GA and GAM programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (4) to (8) of this rule.

(4) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:

(a) The client.

(b) The client's spouse.

(c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.

(d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(5) If the trust contains resources or income of another person, only the share attributable to the client is considered available.

(6) Except as provided in section (9) of this rule, the following factors are ignored when determining how to treat a trust:

(a) The purpose for which the trust was established.

(b) Whether or not the trustees have or exercise any discretion under the trust.

(c) Any restrictions on when or if distributions may be made from the trust.

(d) Any restrictions on the use of distributions from the trust.

(7) If the trust is revocable, it is treated as follows:

(a) The total value of the trust is considered a resource available to the client.

(b) A payment made from the trust to or for the benefit of the client is considered unearned income.

(c) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.

(8) If the trust is irrevocable, it is treated as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.

(b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.

(9) Notwithstanding the provisions in sections (1) and (3) to (8) of this rule, the following trusts are not considered in determining eligibility for OSIPM and QMB:

(a) A trust containing the assets of a client determined to have a disability that meets the SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:

- (A) The client's parent.
- (B) The client's grandparent.
- (C) The client's legal guardian or conservator.
- (D) A court.

(b) A trust established between October 1, 1993 and March 31, 1995 for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:

- (A) Personal-needs allowance.
- (B) Community spouse monthly maintenance needs allowance.
- (C) Medicare and other private medical insurance premiums.
- (D) Other incurred medical.

(c) A trust established on or after April 1, 1995 for the benefit of the client whose income is above 300 percent of the full SSI standard and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all of the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:

(A) Personal needs allowance and applicable room and board standard.

(B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:

- (i) Trustee fees.
- (ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.
- (iii) Conservatorship and guardianship fees and costs.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical costs as allowed under OAR 461-160-0030 and 461-160-0055.

(F) Contributions to reserves or payments for child support, alimony, and income taxes.

(G) Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.

(H) Contributions to a reserve or payments for home maintenance if the client meets the criteria of OAR 461-155-0660 or OAR 461-160-0630.

(I) Patient liability not to exceed the cost of home and community-based care (see OAR 461-001-0030) or nursing facility services.

(10) This section of the rule applies to a trust signed on or after July 1, 2006.

(a) Notwithstanding the provisions of sections (1) and (3) to (8) of this rule, a trust that meets the requirements of subsection (b) of this section is not considered in determining eligibility for OSIPM and QMB, except that if the client is age 65 or older when the trust is funded or a transfer is made to the trust, the transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and following.

(b) This section of the rule applies to a trust that meets all of the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

(C) The trust is established by the client, client's parent, grandparent, or legal guardian or a court for clients who have disabilities.

(D) Upon the death of the beneficiary or termination of the trust, the trust pays to the State an amount equal to the total medical assistance paid on behalf of the beneficiary under the State plan for Medicaid. The amount paid to the state may be reduced by administrative costs directly related to administering the sub-trust account of the beneficiary.

(E) The trust contains the resources or income of a client who has a disability that meets the SSI criteria.

(11) In the GA, GAM, OSIP, OSIPM, and QMB programs, the provisions of this rule may be waived for an irrevocable trust if the Department determines that denial of benefits would create an undue hardship on the client if, among other things:

(a) The absence of the services requested may result in a life-threatening situation.

(b) The client was a victim of fraud or misrepresentation.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 18-2002(Temp), f. & cert. ef. 11-19-02 thru 5-18-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0550

Unemployment Compensation Benefit

In all programs covered by chapter 461 of the Oregon Administrative Rules, unemployment compensation benefits are treated as follows:

(1) Retroactive payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(2) Disaster Unemployment Assistance is treated as provided in OAR 461-145-0100.

(3) The \$25 supplemental payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded from *countable* (see OAR 461-001-0000) income.

(4) All payments not covered under sections (1) to (3) of this rule are counted as unearned income.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014 & 412.049
Stats. Implemented: ORS 411.060, 411.083, 411.404, 411.070, 411.816, 412.014 & 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 3-2009(Temp), f. & cert. ef. 3-3-09 thru 8-30-09; SSP 24-2009, f. & cert. ef. 8-31-09; SSP 35-2009(Temp), f. & cert. ef. 11-24-09 thru 5-23-10; SSP 5-2010, f. & cert. ef. 4-1-10

461-145-0560

Uniform Relocation Act

Reimbursements from the Federal Uniform Relocation Assistance Act (42 U.S.C. 4621–4625) and from the Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651–4655) are excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.014, 412.049, 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 17-2008, f. & cert. ef. 7-1-08

461-145-0570

USDA Meal Reimbursement

(1) A USDA meal reimbursement (see OAR 461-001-0000) is counted as self-employment income, except for the portion excluded in accordance with section (2) of this rule.

(2) The proportionate share of a USDA meal reimbursement for a child in the filing group is excluded.

Stat. Auth.: 411.060, 411.816, 412.049
Stats. Implemented: 411.060, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-145-0580

Veterans' Benefits

(1) Veterans' benefits, other than the educational and training and rehabilitation program benefits, are treated as follows:

(a) Except as specified in sections (2) and (5) of this rule, monthly payments are counted as unearned income.

(b) Other payments are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

(2) Veterans' benefits that include aid-and-attendance payments are treated as follows:

(a) For OSIP and OSIPM clients receiving long-term care or home and community-based care (see OAR 461-001-0030):

(A) When determining eligibility, the entire veterans' benefit payment is excluded.

(B) When calculating monthly benefits or patient liability, the entire veterans' benefit payment is counted as unearned income.

(C) Payments for services not covered by the Department's programs are excluded.

(D) If the client receives a payment covering a previous period of eligibility, the client is required to turn over to the Department the full amount of the payment up to the cost of institutional and home and community-based care provided to the client during the months covered by the payment. A client's failure to reimburse the Department in this instance constitutes an overpayment of public assistance in accordance with OAR 461-195-0501 and 461-195-0521 and ORS 411.640 and 411.690. Any excess veterans' benefit payment made to the client is counted as lump sum or periodic income.

(b) For all other clients not covered under subsection (a) of this section:

(A) In the SNAP program, aid-and-attendance payments used to pay for an attendant are treated as a reimbursement and excluded (see OAR 461-145-0440). The remaining benefits, if any, are counted as unearned income.

(B) In the OSIPM and QMB programs, the aid-and-attendance payments are excluded. The remaining benefits are counted unless excluded under another rule or another section of this rule.

(C) Reimbursements paid to the client for costs and services already paid for by the Department are third-party resources and may be recovered from the client as an overpayment of public assistance pursuant to OAR 461-195-0501, 461-195-0521, and 461-195-0551. Any unrecovered third-party resource or payment above the actual cost is counted as lump-sum or periodic income (see OAR 461-140-0110 and 461-140-0120).

(3) Educational benefits from the United States Veterans Administration are treated in accordance with OAR 461-145-0150.

(4) A subsistence allowance from a training and rehabilitation program of the United States Veterans Administration is treated:

(a) In the SNAP program, as earned income (see OAR 461-145-0130).

(b) In all other programs, as unearned income.

(5) The following payments are excluded:

(a) Payments under 38 USC 1805 to biological children of Vietnam veterans who are born with spina bifida.

(b) Payments under 38 USC 1815 to children with birth defects born to female Vietnam veterans.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.620, 411.640, 411.690, 411.700, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 26-2012(Temp), f. & cert. ef. 7-11-12 thru 1-7-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0582

Victims' Assistance

(1) Payments to victims of Nazi persecution covered by Public Law 103 286 and payments to victims of crime under 42 U.S.C. 10602 (The Crime Act of 1984) are excluded as income, and amounts retained are excluded as a resource as long as the amounts are not commingled with other funds.

(2) For other types of victims' assistance (not covered by section (1) of this rule):

(a) Payments that are considered a reimbursement (see OAR 461-001-0000) for a lost item are treated as provided in OAR 461-145-0440.

(b) Payments for pain and suffering are treated in the same manner as personal injury settlements under OAR 461-145-0400.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042
Hist.: AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08

461-145-0585

Vocational Rehabilitation Payment

(1) Except as provided in section (2) of this rule:

(a) Vocational rehabilitation maintenance payments for food, shelter and clothing are counted as unearned income.

(b) In the SNAP program, a training allowance or stipend from a vocational rehabilitation program is treated as earned income. For all other programs, a training allowance or stipend is treated as unearned income.

(c) Educational income not covered under subsection (b) of this section is treated as provided in OAR 461-145-0150.

(d) Vocational rehabilitation payments for special itemized needs connected with the evaluation, planning or placement activity are treated as a reimbursement (see OAR 461-145-0440). These payments include payments for:

(A) Child care.

(B) Clothing.

(C) Second residence.

(D) Special diet.

(E) Transportation.

(2) Benefits from the United States Veterans Administration are treated as provided in OAR 461-145-0580.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 8-2008, f. & cert. ef. 4-1-08

461-145-0590

Workers Compensation

(1) For workers compensation payments received monthly or more frequently:

(a) Except as provided in subsection (b) of this section, these payments are counted as unearned income.

(b) In the ERDC, REF, REFM, SNAP, and TANF programs, income from workers compensation is counted as earned income (see OAR 461-145-0130) if paid to a client who is still employed while recuperating from an illness or injury.

(2) All workers compensation payments other than those in section (1) are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0600

Work-Related Capital Assets, Equipment, and Inventory

(1) As used in this rule:

(a) "Inventory" means goods that are in stock and available for sale to prospective customers.

(b) "Work-related equipment" means property essential to the employment or self-employment of a financial group (see OAR 461-110-0530) member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.

(2) A capital asset (see OAR 461-001-0000), other than work-related equipment (see section (1) of this rule) and inventory (see section (1) of this rule), is treated as follows:

(a) In the ERDC and GA programs, the equity value (see OAR 461-001-0000) of a capital asset is treated according to the rules for the asset.

(b) In the SNAP program, a capital asset used in a business is excluded as follows:

(A) Non-farm assets are excluded as long as the financial group is actively engaged in self-employment activities.

(B) Farm assets are excluded until one year after the date the individual quit self-employment as a farmer.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component (see OAR 461-190-0197) of the JOBS program, the value of a capital asset is excluded.

(B) For all other clients, the value of a capital asset is counted according to the rules in this division of rules.

(d) In the OSIP, OSIPM, and QMB programs, a capital asset is excluded.

(3) Work-related equipment is treated as follows:

(a) In the EA, ERDC, OSIP, OSIPM, QMB, and SNAP programs, the equity value of work-related equipment is excluded.

(b) In the GA program, the value of equipment needed by an individual who has a disability or is blind to complete a plan for self-support (see OAR 461-135-0708) is excluded as long as the plan is in effect. For all other equipment, the equity value of the equipment is counted as a resource, except as provided at OAR 461-145-0250.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the equity value of the equipment is excluded.

(B) For all other clients, the equity value of the equipment is treated as a resource.

(4) Inventory is treated as follows:

(a) In the EA, ERDC, OSIP, OSIPM, QMB, and SNAP programs, inventory is excluded as long as the client is engaged in self-employment activities.

(b) In the GA program, the value of inventory needed by an individual who has a disability or is blind to complete a plan for self-support is excluded, as long as the plan is in effect. For all other inventory, the equity value of the inventory is counted as a resource.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the wholesale value of inventory remaining at the end of the semi-annual period covered

in each income statement (see OAR 461-190-0197), less encumbrances, is counted as a resource.

(B) For all other clients, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0810

Deemed Assets; Overview

For a sponsored noncitizen:

(1) Deemed assets are the portion of the income and resources of an individual not in the *financial group* (see OAR 461-110-0530) used to determine eligibility and benefit level for a sponsored noncitizen who is a member of the *financial group*.

(2) To be eligible for benefits, a sponsored noncitizen must provide necessary information about each individual whose assets are deemed to the sponsored noncitizen who is a member of the *financial group*.

(3) To determine countable assets for deeming, use the policy for the program for which the *financial group* is applying.

Stat. Auth.: ORS 411.060, 411.816, 412.006, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.006, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10

461-145-0820

Deemed Assets; Noncitizen's Sponsor

(1) An individual or organization may sponsor the admission of a noncitizen under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154).

(2) An affidavit of support (USCIS Form I-864) is the agreement between the sponsor and the United States Citizenship and Immigration Services in which the sponsor agrees to provide financial support for the noncitizen so that the noncitizen will not become a public charge.

(3) In all programs except the ERDC, REF, and REFM programs, the countable assets of an individual sponsor and the spouse of the sponsor are considered countable assets of the noncitizen as provided in this section and OAR 461-145-0810 to 461-145-0860. The sponsor's assets are considered available to the noncitizen whether or not the sponsor lives in the same household as the noncitizen. The assets of the sponsor's spouse are considered available only when the spouse lives in the sponsor's household.

(4) OAR 461-145-0830 sets out situations in which the assets of the sponsor and the spouse of the sponsor are not counted, as well as how the income deemed available to the noncitizen is calculated.

(5) The value of the resources deemed available to each noncitizen is determined as follows:

(a) In all programs except the OSIPM and SNAP programs, the total value of the countable resources is deemed to each sponsored noncitizen according to the rules of the program for which the noncitizen applies.

(b) In the OSIPM program, an amount equal to the OSIPM (not OSIPM-EPD) program resource standard is deducted from the total amount of resources deemed to the noncitizen (see OAR 461-160-0015). If the sponsor lives with a spouse, the two-person standard is deducted.

(c) In the SNAP program only, \$1,500 is deducted from the value. The remaining value is divided by the number of noncitizens sponsored by the individual or couple. The result is the value of the resources deemed available to the noncitizen.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1993(Temp), f. & cert. ef. 2-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 8-2003(Temp), f. & cert. ef. 4-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0830

When to Deem the Assets of a Sponsor of a Noncitizen

(1) In the ERDC, REF, and REFM programs, the assets of a sponsor and of a sponsor's spouse are not deemed to the sponsored noncitizen.

(2) In all programs except the ERDC, REF, and REFM programs, the assets of a sponsor and the spouse of the sponsor are considered the assets of the sponsored noncitizen unless at least one of the following subsections applies:

(a) The sponsor has not signed a legally binding affidavit of support, for instance USCIS Form I-864 or I-864A;

(b) The sponsor receives SNAP, SSI, or TANF benefits;

(c) The sponsor is deceased. The estate of a deceased sponsor is not responsible for the noncitizen;

(d) The sponsored noncitizen establishes indigence. A sponsored noncitizen establishes indigence if the total income of the household including in-kind income plus any cash, food, housing, or other assistance provided by other individuals including the sponsor is:

(A) In the TANF program, under the countable (see OAR 461-001-0000) income standard.

(B) In the SNAP program, under 130 percent of the federal poverty level.

(C) In all programs except the SNAP and TANF programs, not enough for the noncitizen to obtain food and shelter without program benefits.

(i) If the noncitizen is living with the sponsor, the indigence exception may not apply and deeming does apply.

(ii) If the noncitizen is living apart from the sponsor, the indigence exception applies if the noncitizen meets all of the following requirements:

(I) The total income (of all kinds and from all sources, even excluded income) the noncitizen receives is less than the OSIPM standard for a one-person need group;

(II) The noncitizen does not receive free room and board; and

(III) The resources (even excluded resources) available to the noncitizen are under the applicable resource limit.

(D) Each indigence determination under this subsection is effective for 12 months and may be renewed for additional 12-month periods.

(e) The sponsored noncitizen is a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent, as long as the battered noncitizen does not live in the same household as the person responsible for the battery;

(f) The sponsored noncitizen does not meet the alien status requirement for the program for which he or she applies;

(g) The sponsored noncitizen becomes a naturalized citizen;

(h) The sponsored noncitizen can be credited with 40 qualifying quarters of work; or

(i) The sponsored noncitizen is under 18 years of age.

(3) In the OSIPM program, the deeming period is three years after the date of admission, which is the date the U.S. Bureau of Citizenship and Immigration Services establishes as the date the noncitizen was admitted for permanent residence. Deeming ends on the last day of the month that is three years after the date of admission.

(4) In all programs except the ERDC, OSIPM, REF, REFM, and SNAP programs, the following process is used to determine the amount of income considered available to the noncitizen from the noncitizen's sponsor and the spouse of the sponsor. The unearned income of the sponsor and the sponsor's spouse is added

to their countable earned income (see OAR 461-140-0010) minus earned income deductions.

(5) In the OSIPM program:

(a) The income of the sponsor or the sponsor's spouse is not counted if any one of the following provisions applies:

(A) The individual is a refugee admitted to the United States under section 207 of the Immigration and Nationality Act (INA) (8 USC 1157);

(B) The individual has been granted asylum under section 208 of the INA (8 USC 1158); or

(C) The individual has become blind or disabled after admission to the United States.

(b) An amount equal to the OSIPM (not OSIPM-EPD) program income standard is deducted from the total amount of income deemed to the noncitizen (see OAR 461-160-0015). If the sponsor lives with a spouse, the two-person standard is deducted.

(6) In the SNAP program, each sponsored noncitizen is considered to have the income calculated according to section (4) of this rule divided by the number of the sponsor's --

(a) Current sponsored noncitizens;

(b) Household members who receive support from the sponsor; and

(c) Dependents.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.816, 412.049, 414.025

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.816, 412.049, 414.025

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1993(Temp), f. & cert. ef. 2-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 8-2003(Temp), f. & cert. ef. 4-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0860

Deemed Assets, Parent of Minor Parent; TANF

In the TANF program, the assets of the parents of a minor parent are deemed as follows if they are living together and the minor parent is under age 18, has never married, and is not legally emancipated.

(1) The resources of the parents of the minor parent are excluded.

(2) The income of the parents is deemed to the minor parent when the minor parent and the minor's children live with the minor's parents.

(3) The income of the parents of a pregnant minor is deemed to the minor when the minor lives with the parents.

(4) Deemed income is considered available to the minor parent and the parent's dependent child, or to the pregnant minor, even if it is not received.

(5) The amount of the deemed income of the parents is determined as follows:

(a) A \$90 earned income deduction is allowed.

(b) The needs of the parents and the parents' dependents, living in the same household and not included in the benefit group, are deducted at the TANF Payment Standard.

(c) Amounts paid to legal dependents not living in the household are deducted.

(d) Payments of alimony or child support are deducted.

(e) Any remaining income is countable deemed income.

Stat. Auth.: ORS 411.060, 412.049

Stats. Implemented: ORS 411.060, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; ; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-145-0910

Self-Employment; General; Not OSIP, OSIPM, or QMB

(1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-

employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.

(2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual:

(a) Is considered an independent contractor by the business that employs the individual; or

(b) Meets at least four of the following criteria:

(A) Is engaged in an enterprise for the purpose of producing income.

(B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.

(C) Is principally responsible for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.

(D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.

(E) Is not covered under an employer's liability or workers' compensation insurance policy.

(3) Notwithstanding section (2) of this rule:

(a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a microenterprise (see OAR 461-001-0000), is counted prospectively to determine eligibility (see OAR 461-001-0000) as follows:

(a) Self-employment income is annualized when it is:

(A) Received during less than a 12-month period but is intended as a full year's income.

(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.

(b) Except in the ERDC program, self-employment income is treated as anticipated income when a financial group (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.

(5) In the GA program, self-employment income is considered available upon receipt by a member of the financial group, except it is prorated over the period of work if the duration of the work exceeds one month.

(6) In the REFM program:

(a) Self-employment income is counted only if received in the month of application.

(b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.

(7) When determining the amount of countable (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert.

ef. 7-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-145-0915

Self-Employment; General; OSIP, OSIPM, QMB

(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 a "business entity" (see subsection (a) of this section), including a sole proprietor, a general partner in a partnership, or a member or manager of an unincorporated limited liability company.

(2) Notwithstanding any other sections of this rule:

(a) Homecare workers (see OAR 411-031-0020) paid by the Department are not self-employed.

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered self-employed.

(c) Self-employment does not include non-business activities such as property rentals (see OAR 461-145-0252) or renting a room out of the financial group's primary residence (see OAR 461-145-0340).

(3) Self-employment means active engagement in one's own business, trade, or profession, rather than earning a salary or wage paid by an employer or maintaining a passive ownership interest in a business entity. An individual is considered self-employed if the individual meets the criteria in subsection (2)(b) or section (5) of this rule.

(4) For a principal (see subsection (1)(b) of this rule) of a corporation or incorporated limited liability company, payments for working or performing services for the corporation or holding corporate office are considered wages and counted as earned income (see OAR 461-145-0089 and 461-145-0130).

(5) Except as provided in OAR 461-145-0089(3), an individual is self-employed for the purposes of this division of rules if the individual:

(a) Is considered an independent contractor by the business that employs him or her; or

(b) Meets at least four of the following criteria:

(A) Is engaged in an enterprise for the purpose of producing income.

(B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.

(C) Has significant responsibility for the success or failure of the business operation and has the authority to hire and fire employees to perform the labor or services.

(D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.

(E) Is not covered under an employer's liability or workers' compensation insurance policy.

(6) For a principal or any individual with an ownership interest in a business entity who cannot be considered self-employed using the criteria in this rule:

(a) See OAR 461-145-0089 for individuals who are not actively working in the business entity to determine how to treat income and resources.

(b) See OAR 461-145-0130 for individuals who are actively working for the business entity but do not have significant authority or responsibility for its success or failure to determine how to treat income and OAR 461-145-0089 to determine how to treat resources.

(7) For an individual who is considered self-employed:

(a) See OAR 461-145-0920 and 461-145-0930 to determine how to treat income from self-employment.

(b) See OAR 461-145-0600 to determine how to treat resources used in self-employment.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.400, 411.404, 411.706, 413.085, 414.685, 414.839

Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0920

Self-Employment; Costs That Are Excluded To Determine Countable Income

(1) This rule explains how to determine which costs are excluded from gross self-employment income.

(2) In all programs except the OSIP, OSIPM, and QMB programs, unless prohibited by section (4) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:

(a) Labor (wages paid to an employee or work contracted out).

(b) Materials used to make a product.

(c) In the SNAP program -- principal and interest paid to purchase income-producing property (see OAR 461-001-0000), such as real property, equipment, or capital assets. In all other programs, interest paid to purchase income-producing property, such as equipment or capital assets.

(d) Insurance premiums, taxes, assessments, and utilities paid on income-producing property.

(e) Service, repair, and rental of business equipment, including motor vehicles, and property that is owned, leased, or rented.

(f) Advertisement and business supplies.

(g) Licenses, permits, legal, or professional fees.

(h) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense.

(i) Charges for telephone service that are a necessary cost for self-employment.

(j) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider can document the cost. If the provider cannot document the actual cost, the USDA meal reimbursement rates are used.

(k) Materials purchased for resale, such as cosmetic products.

(L) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

(3) In the OSIP, OSIPM, and QMB programs, unless prohibited by section (5) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:

(a) Advertising.

(b) Car and truck expenses.

(c) Commissions and fees.

(d) Contract labor.

(e) Depletion.

(f) Depreciation.

(g) Employee benefit programs.

(h) Insurance, other than health.

(i) Mortgage interest.

(j) Legal and professional services.

(k) Office expenses.

(L) Pension and profit-sharing plans.

(m) Rent or lease of vehicles, machinery, equipment, and other business property.

(n) Repairs and maintenance.

(o) Supplies.

(p) Taxes and licenses.

(q) Travel, meals, and entertainment.

(r) Utilities.

(s) Wages, less employment credits.

(t) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider is able to document the cost. If the provider is unable to document the actual cost, the USDA meal reimbursement rates are used.

(u) Materials purchased for resale, such as cosmetic products.

(v) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

(4) In all programs except the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:

(a) Business losses from previous months.

(b) Except in the SNAP program, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods.

(c) Federal, state, and local income taxes, draws or salaries paid to any financial group member, money set aside for personal retirement, and other work-related personal expenses, such as transportation, personal business, and entertainment expenses.

(d) Depreciation. For purposes of this section, "depreciation" means a prorated lessening of value assigned to a capital asset (see OAR 461-001-0000) based on its useful life expectancy and initial cost.

(e) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.

(f) Interest or fees on personal credit cards.

(g) Personal telephone charges.

(h) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.

(5) In the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:

(a) Federal, state, and local income taxes.

(b) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.

(c) Interest or fees on personal credit cards.

(d) Personal telephone charges.

(e) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.

(6) The exclusions for items used for both business and personal purposes, such as automobiles and a residence, including utilities, are limited by the following subsections:

(a) In the ERDC, GA, GAM, OSIP, OSIPM, and QMB programs, the portion of the expense that is for business use only is excluded.

(b) In the SNAP program, costs are excluded for a separate office or shop located on the property used as a home, if the costs are billed separately from the residence. Costs for other items used for both business and personal use are excluded.

(7) If no member of the financial group (see OAR 461-110-0530) has been self-employed for a sufficiently long period to ascertain the costs of self-employment, the costs may be estimated.

(8) For an individual participating in the microenterprise component (see OAR 461-190-0197) of the JOBS program, costs are excluded according to this rule and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. &

cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0930

Self-Employment; Determination of Countable Income

(1) The Department initially determines gross sales and receipts minus any returns and allowances (before excluding or deducting any costs). This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts.

(2) In the ERDC program, if an individual claims an excludable cost permitted under OAR 461-145-0920, at least 50 percent of gross self-employment income is excluded. The maximum exclusion is the total excludable cost under OAR 461-145-0920.

(3) In the GA, OSIP, OSIPM, QMB, and REFM programs, all costs permitted under OAR 461-145-0920 are excluded.

(4) In the REF program, no costs are excluded.

(5) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is a deduction of 50 percent of gross self-employment income.

(6) In the TANF program:

(a) For an individual participating in the microenterprise (see OAR 461-001-0000) component of the JOBS program, costs are excluded according to 461-145-0920 and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

(b) For all other individuals, no costs are subtracted (excluded).

Stat. Auth.: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049 & 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009, 412.049 & 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15

461-145-0931

Additional Exclusions for Farming Costs; SNAP

In the SNAP program, if gross self-employment income from farming is less than the costs calculated in accordance with OAR 461-145-0920, and the client receives or anticipates receiving annual gross farm income of \$1,000 or more, then farming-related costs that exceed self-employment income from farming are allowed as an exclusion from nonfarm self-employment income, other earned income, and unearned income.

Stat. Auth.: ORS 411.060, 418.040 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99

DIVISION 150

RETROSPECTIVE/PROSPECTIVE ELIGIBILITY AND BUDGETING

461-150-0020

Prospective Eligibility and Budgeting

For prospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000):

(1) The budget month (see OAR 461-001-0000) and payment month (see OAR 461-001-0000) are the same.

(2) The client's anticipated income, household composition, and other relevant factors are used to determine the client's eligibility and benefit level. The client and Department jointly anticipate the client's income based on the income already received and the income the client expects to receive.

(3) Prospective budgeting is used for annualized income and prorated educational income.

(4) When prospective budgeting is used and the actual income differs from the amount determined under section (2) of this rule:

(a) If the anticipated income exceeds the actual income, a client is not entitled to a benefit supplement.

(b) If the actual income exceeds the anticipated income, there may be a client-error overpayment under OAR 461-195-0521.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2001(Temp), f. & cert. ef. 4-4-01 thru 6-30-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 7-2004(Temp), f. & cert. ef. 4-1-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-150-0042

Prospective Eligibility and Budgeting; EA

In the EA program, the Department uses prospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000) as follows:

(1) For the month of application, prospective eligibility is used, including for a client who leaves a filing group (see OAR 461-110-0310) because of domestic violence.

(2) For budgeting, OAR 461-160-0140 is used to determine benefit level.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 13-2009, f. & cert. ef. 7-1-09

461-150-0050

Prospective Eligibility and Budgeting; GA, GAM, OSIP, OSIPM, QMB

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

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

(a) For the *initial month* (see OAR 461-001-0000), the Department uses prospective eligibility and budgeting. Money received from a nonrecurring source before the date of application is excluded. If any money remains after the date of application, it is counted as a resource.

(b) For each ongoing month (see OAR 461-001-0000) the Department uses prospective eligibility and budgeting.

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 32-2010, f. & cert. ef. 10-1-10

461-150-0060

Prospective or Retrospective Eligibility and Budgeting; ERDC, REF, REFM, SNAP, TANF

In the ERDC, REF, REFM, SNAP, and TANF programs, the Department determines how and when to use prospective or retrospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000) as follows:

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

(a) In the ERDC program, income is budgeted so the anticipated amount is the same for each month, including the initial month.

(b) For a SNAP case in CRS, the Department uses "actual income" (see subsection (h) of this section) in the initial month.

(c) For a SNAP program case in SRS, "actual income" is used in the initial month if that income is not reflective of ongoing monthly income due to a new or terminated source or a significant

change in ongoing income. All other income is processed under section (3) of this rule.

(d) In the REF and TANF programs, ongoing income, processed under section (2) of this rule, is used in the initial month, except when the source of income is a new or terminated source. When there is a new or terminated source of income, “actual income” is used in the initial month.

(e) In the REFM program, the Department uses only the initial month for eligibility and budgeting.

(f) The Department uses prospective eligibility and budgeting under OAR 461-150-0020 for cases not covered under subsections (a) to (e) of this section, including for an individual who leaves a filing group (see OAR 461-110-0310) because of domestic violence (see OAR 461-001-0000) and enters a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000).

(g) No supplement is issued based on incorrectly anticipated information.

(h) “Actual income” means income already received in the initial month plus all the income that reasonably may be expected to be received within the initial month.

(2) Income is budgeted so that the anticipated amount is the same for each month. The type of income is determined and calculated as follows:

(a) Income that must be annualized is calculated under OAR 461-150-0090 to arrive at a monthly figure.

(b) Educational income (see OAR 461-145-0150) is assigned to the months it is intended to cover, regardless of when it is received. The income is prorated over these months.

(c) Ongoing stable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0070.

(d) Ongoing variable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0080.

(e) Periodic income (see OAR 461-001-0000) is anticipated under OAR 461-140-0110.

(f) Lump-sum income (see OAR 461-001-0000) is anticipated under OAR 461-140-0120.

(3) For an ongoing month (see OAR 461-001-0000):

(a) For a benefit group (see OAR 461-110-0750), the Department uses prospective eligibility and budgeting. The type of income is determined and calculated under section (2) of this rule.

(b) If the budgeting method changes from prospective to retrospective, the Department treats income from a terminated source that was counted prospectively as follows:

(A) If the actual amount received was less than or equal to the anticipated amount, the income is excluded.

(B) If the actual amount received was greater than the anticipated amount, the Department counts the difference between actual and anticipated amounts.

(4) When an individual is added to an ongoing filing and benefit group, prospective budgeting is used to determine eligibility.

(5) In the SNAP program, income reported on the Interim Change Report form under OAR 461-170-0011 and 461-170-0102 is used to determine eligibility and benefit level. Income for the fifth month of the SNAP program certification period (see OAR 461-001-0000) is used to determine the income for the seventh and following months in the certification period if the individual anticipates the income will remain the same throughout the period. If the individual anticipates the income will change, the individual and the Department jointly estimate the income for the remaining months of the certification period. For an individual who had self-employment income annualized, no change is made unless there is a substantial change in the revenue of the business.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049
Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 13-

2013, f. & cert. ef. 7-1-13; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-150-0070

Prospective Budgeting of Stable Income

(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 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.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-89, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-1

461-150-0080

Prospective Budgeting of Variable Income; Not OHP; Not MRS

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 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.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-1

461-150-0090

Prospective Budgeting: Annualizing and Prorating Contracted or Self-employment Income; Not OSIP, OSIPM, or QMB

In all programs except the REFM program:

(1) Income from self-employment, including contract income while self-employed, is treated in accordance with OAR 461-145-0910 unless the income meets the provisions of section (2) of this rule.

(2) If past contract income is not representative of future income or when a substantial increase or decrease is expected in countable (see OAR 461-001-0000) self-employment income (see OAR 461-145-0910) in the next year, costs as allowed under OAR 461-145-0930 and anticipated income are used to determine the countable income.

(3) In the ERDC, REF, SNAP, and TANF programs, contract income that does not meet the criteria of self-employment income (see OAR 461-145-0910) is treated as follows:

(a) Income received during a less than 12-month period but intended as a full year's income is annualized.

(b) Income received on an hourly or piecework basis or monthly over the term of the contract period is not annualized. It is treated as stable income (see OAR 461-001-0000) under OAR 461-150-0070 or variable income (see OAR 461-001-0000) under OAR 461-150-0080.

(4) Contract income that is not the annual income of the financial group (see OAR 461-110-0530) and not paid on an hourly or piecework basis is prorated over the period the income is intended to cover.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.014, 412.049
 Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.014, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 37-2009(Temp), f. & cert. ef. 12-1-09 thru 5-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; ; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-150-0095

Prospective Budgeting: Averaging and Estimating Self-employment Income; OSIP, OSIPM, QMB

(1) Net earnings from self-employment are counted on a taxable year basis by dividing the total earnings by twelve to arrive at a monthly amount.

(2) Only net losses from self-employment that are documented are divided over the taxable year in the same way as net earnings and excluded only from other earned income of the financial group (see OAR 461-110-0530 and 461-145-0130).

(3) When a self-employed individual is engaged in a business or trade which is neither seasonal nor has income peaks at certain parts of the year, estimate net earnings from self-employment for the current taxable year in the following sequence:

(a) When the individual has been conducting the same trade or business for two or more years, has had fairly constant net earnings from self-employment from year-to-year, and anticipates no change or gives no convincing explanation why current net earnings would be substantially different from past net earnings, use the net

earnings from the prior year as an estimate for the current taxable year.

(b) When an individual has been engaged in the same business for only the preceding taxable year, anticipates no change or gives no convincing explanation why current net earnings would be substantially different from the previous taxable year:

(A) Calculate the ratio between net profit or loss and gross receipts from the last year;

(B) Calculate the actual gross receipts from the individual's current records and project them for the remainder of the year; and

(C) Apply the gross-to-net ratio calculated in paragraph (A) of this subsection to the current year's projected gross calculated in paragraph (B) of this subsection to arrive at the estimated net earnings.

(c) When an individual is engaged in a new business, project the income received to date for the remainder of the year as follows:

(A) Calculate the net earnings from the individual's profit and loss statement or other business records for the taxable year to date; and

(B) Average the monthly net earnings by dividing the net income received to date by the number of months that have elapsed.

(d) Accept the individual's estimate for the net earnings when an individual is engaged in one of the following:

(A) A new business for which there are insufficient net earnings to date.

(B) At initial application only, an existing business for which records were not kept.

(C) An existing business with anticipated income that varies from past years and a convincing explanation is given for the variation.

(4) When a self-employed individual is engaged in a trade or business that is seasonal or has income peaks at certain parts of the year, estimate net earnings from self-employment for the current taxable year in the following sequence:

(a) When the individual has been conducting the same trade or business for at least one full taxable year, anticipates no change or gives no convincing explanation why current net earnings would be substantially different from past net earnings, use the net earnings from the prior year as an estimate for the current taxable year.

(b) Accept the individual's estimate for the net earnings when an individual is engaged in one of the following:

(A) A new business.

(B) At initial application only, an existing business for which records were not kept.

(C) An existing business with anticipated income that varies from past years and a convincing explanation is given for the variation.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685
 Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839
 Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-150-0100

Initial Month Prospective Budgeting for Destitute Filing Groups; SNAP

For a destitute (see OAR 461-135-0575) filing group, only the following income is used to determine eligibility (see OAR 461-001-0000) and benefit level in the initial month (see OAR 461-001-0000) or the first month of the certification period (see OAR 461-001-0000):

(1) Income received from the first of the month through the filing date (see OAR 461-115-0040); and

(2) Income received after the filing date that is regular and ongoing. Income from a new source anticipated to be received after the filing date is not used.

Stat. Auth.: ORS 411.816
 Stats. Implemented: ORS 411.816
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; SSP 13-2009, f. & cert. ef. 7-1-09

DIVISION 155

INCOME AND PAYMENT STANDARDS,

AND SPECIAL NEEDS

461-155-0010

Use of Payment Standards to Establish Need

(1) *Need* is the amount at the Department's payment standards

that represents the client's need for items covered by the benefit.

(2) *Special needs* are costs in addition to standard allowances.

(3) In the GA and GAM programs, ongoing special needs are used to determine benefit amount as specified in OAR 461-160-0500.

(4) In the OSIP and OSIPM programs:

(a) The special need described in OAR 461-155-0630(2) is used to determine initial and ongoing eligibility.

(b) Except for individuals whose eligibility is determined based on the special need described in OAR 461-155-0630(2), special needs are used when determining the benefit amount or the client liability.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-

1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 29-2003(Temp), f. 10-31-

03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-

2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2007, f. &

cert. ef. 10-1-07

461-155-0020

Prorated Standards; Adjusted Number in Household

(1) Prorated standards are used only in the no-adult tables and the non-SSI OSIP and OSIPM table.

(2) In the OSIP and OSIPM programs:

(a) Prorated standards only apply when an individual or a couple receives free food and shelter from others living in the household, and the individual or couple does not have an ownership interest or rental liability in the residence.

(b) Prorated standards are not applied to cases in which an individual receives services described in OAR chapter 411, division 015.

(c) Shelter-in-kind (see OAR 461-145-0470) may apply when prorated standards are not used.

(3) In the TANF program, the no-adult tables are used when there are no adults in the TANF need group (see OAR 461-110-0630).

(4) Prorated standards are based on the number of people in the need group, compared to the adjusted number in the household group (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the need group:

(a) Unborns.

(b) Individuals receiving long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030).

(c) Foster children.

(d) Children receiving adoption assistance.

(e) Live-in attendants who live with the filing group (see OAR 461-110-0310) solely to provide necessary medical or housekeeping services and are paid to provide these services.

(f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at fair market value (see OAR 461-001-0000) for housing and if:

(A) The filing group lives independently from the landlord or tenant;

(B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

(C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for fair market value compensation.

(g) In the OSIP and OSIPM programs only:

(A) The biological and adoptive children of either spouse (see OAR 461-001-0000).

(B) Recipients of GA, OCCS Medical Programs (see OAR 461-001-0000), OSIP, OSIPM, QMB, or TANF.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1998, f. & cert. ef. 10-1-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 21-2015, f. & cert. ef. 7-1-15

461-155-0030

Income and Payment Standards; MAA, MAF, REF, SAC, TANF

In the JOBS, REF, and TANF programs, the income standards are as follows:

(1) The Countable Income Limit Standard is the amount set as the maximum countable income limit.

(a) For each need group (see OAR 461-110-0630) in the REF and TANF programs containing an adult, the following table is used: [Table not included. See ED. NOTE.]

(b) In the TANF program, a caretaker relative (see OAR 461-001-0000) other than a parent (see OAR 461-001-0000) who chooses not to be included in the need group is subject to the "no-adult countable income limit standard" for the need group under subsection (c) of this section. The "non-needy countable income

limit standard” for the filing group (see OAR 461-110-0330) is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

(c) In the REF and TANF programs, when the need group contains no adults, the “no adult countable income limit standard” is calculated as follows:

(A) Refer to the Countable Income Limit Standard for need groups with adults. Use the standard for the number of individuals in the household group (see OAR 461-110-0210).

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the need group. The result is the standard.

(d) In the JOBS program, for the filing group of a non-custodial parent who resides in Oregon and whose dependent child (see OAR 461-001-0000) is receiving TANF program benefits in Oregon to participate in an activity (see OAR 461-001-0025) of the JOBS program, the countable (see OAR 461-001-0000) income limit is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

(2) The Adjusted Income/Payment Standard is used as the adjusted income limit and to calculate cash benefits for need groups with an adult.

(a) For need groups containing an adult in the REF and TANF programs, except as provided otherwise in subsection (b) of this section, the following table is used: [Table not included. See ED. NOTE.]

(b) To calculate cash benefits for a need group with an adult in the REF and TANF programs, the following table is used: [Table not included. See ED. NOTE.]

(c) In the REF and TANF programs, when the need group contains no adult, the No-Adult Adjusted Income/Payment Standard is calculated as follows:

(A) Refer to the Adjusted Income/Payment Standard for need groups with adults. Use the standard for the number of individuals in the household group.

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the need group.

(D) Add \$12 to the figure calculated in paragraph (C) of this subsection.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.400, 412.006, 412.049, 412.124

Hist.: AFS 80-1989, f. & cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 6-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 9-30-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 3-2012(Temp), f. & cert. ef. 1-26-12 thru 3-31-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-155-0035

Cooperation Incentive Payment Standard; REF, TANF

(1) The cooperation incentive is a monthly payment added to the TANF cash grant. OAR 461-135-0210 explains who is eligible for this incentive payment.

(2) Except as provided in section (4) of this rule, when there is an adult in the need group, the incentive payment is based on the number of people in the need group as follows:

- (a) One person — \$26;
- (b) Two people — \$32;

- (c) Three people — \$43;
- (d) Four people — \$52;
- (e) Five people — \$52;
- (f) Six people — \$75;
- (g) Seven people — \$75;
- (h) Eight or more people — \$109.

(3) Except as provided in section (4) of this rule, when there is no adult in the need group, the incentive is calculated as follows:

(a) The payment authorized by section (1) of this rule is determined based on the number of people in the household group rather than in the need group. For instance, if there are three people in the household group, the amount used for this calculation is \$43.

(b) The figure obtained in subsection (a) of this section is divided by the number of people in the household group, and the result is rounded to the next lower whole number.

(c) The figure obtained in subsection (b) of this section is multiplied by the number of people in the need group. The result is the incentive payment.

(4) All Cooperation Incentive payments end on September 30, 2010. Beginning October 1, 2010, no client in the REF or TANF program will receive a Cooperation Incentive Payment.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049

Hist.: AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-155-0050

Payment Standard for AFC and RCF; REF, TANF

For REF and TANF, the payment standard for one person in AFC or RCF is the same as the adjusted income standard for a need group with one adult per OAR 461-155-0030. The payment, minus a \$30 personal allowance for clothing and personal incidentals, is for room and board.

Stat. Auth.: ORS 411.060, 411.070 & 412.049

Stats. Implemented: ORS 411.060, 411.070 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 18-1992(Temp), f. & cert. ef. 7-15-92; AFS 28-1992, f. & cert. ef. 10-1-92

461-155-0070

Income and Payment Standard; EA

(1) The income limit in the EA program is the TANF adjusted income or payment standard found in OAR 461-155-0030(2). A client is ineligible for emergency assistance in any month he or she is eligible for the TANF program unless the grant for that month is less than the payment standard only because the grant was prorated for the month.

(2) EA benefits are limited as follows:

(a) The program will provide only the minimum amount necessary to meet the emergent need.

(b) The maximum EA benefit amount for the 30-day eligibility period is \$100.

(c) Payments for food cannot exceed the maximum SNAP allotment by household size.

(d) The client is not eligible for an EA payment unless the payment enables the client to resolve the emergent need in its entirety without receiving JOBS support service payments (see OAR 461-190-0211 and 461-190-0221).

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060, 411.117 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 7-1990, f. & cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 18-1990(Temp), f. & cert. ef. 7-13-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 4-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 17-2004, f. & cert. ef. 7-1-04

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and

(B) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

(a) [Tables not included. See ED. NOTE.]

(b) [Tables not included. See ED. NOTE.]

(c) [Tables not included. See ED. NOTE.]

(5) Except to the extent provided otherwise in section (12) of this rule, this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) At initial certification, the ERDC eligibility standard is met for a need group (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180(6). The eligibility standard for a need group of eight applies to any need group larger than eight.

(b) During the certification period (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 85 percent state median income (SMI) or 250 percent FPL, whichever is higher, as described in OAR 461-155-0180(8) and (9). The eligibility standard for a need group of eight applies to any need group larger than eight.

(c) The minimum monthly ERDC copay is \$25.

(d) For a filing group (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.

(e) For a filing group whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Divide the filing group's countable income by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.

(B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's countable income and round to the nearest whole dollar.

(f) The 2007 federal poverty level used to determine copay amounts under subsections (d) and (e) of this section is set at the following amounts: [Table not included. See ED. NOTE.]

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (4) of this rule.

(b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

(8) The number of payable billed hours of care for a child is limited as follows:

(a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed the amounts in paragraphs (A) or (B) of this subsection:

(A) 125 percent of the number of child care hours authorized:

(i) Under OAR 461-160-0040(2) and (5); or

(ii) To participate in activities included in a case plan (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client.

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.

(b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).

(c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.

(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:

(a) The amount billed by the provider or providers; or

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training required to keep current employment, not including self-employment. This is limited to the following situations:

(a) The commute time to and from work exceeds two hours per day.

(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.

(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.

(d) The caretaker consistently works more than 40 hours per week.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Starting May 1, 2012:

(a) The minimum monthly ERDC copay is \$27.

(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.

(13) A provider caring for a child in a contracted child care slot with the Department will be paid the lesser of the monthly rate provided in section (4) of this rule or the amount charged by the provider.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, OL 2015, ch. 698

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 418.485, OL 2015, ch. 698

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 13-2012(Temp), f. & cert. ef. 4-10-12 thru 10-7-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 31-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 35-2013, f. & cert. ef. 11-1-13 thru 3-30-14; SSP 8-2014, f. & cert. ef. 3-31-14; SSP 14-2015(Temp), f. & cert. ef. 3-23-15 thru 9-18-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-155-0151

High Special Needs; Child Care

(1) The payment authorized by OAR 461-155-0150(11) is calculated by adding the applicable special need payment authorized by section (4) of that rule to the additional amount determined by this rule.

(2) The additional amount determined by this rule is allowed in consideration of the additional cost to a child care provider for the additional care and supervision required because of a child's physical, mental or behavioral condition. To determine the additional amount, a factor determined by this rule is multiplied by:

(a) \$2.50 for a payment calculated on an hourly basis; or

(b) \$420 for a payment calculated on a monthly basis.

(3) The factor used to make the calculation described in section (2) of this rule is determined by first establishing a score for each category listed in section (5) of this rule. The score is established by multiplying a rating and the weight for each category. The weight is given in section (5). The rating is determined as follows:

(a) The child's need for care and supervision is assessed and is compared with the needs of other children of the same age, and a rating is determined for each category. The rating is a whole number from zero to ten.

(b) Benchmark scores are given in section (5) of this rule for each category using several descriptions of need. The child's level is matched with the benchmark descriptions, and a rating is assigned based on a comparison of the child's needs and the benchmark descriptions. If a child's level of need falls between — or is described in part by — two benchmarks in the rule, an appropriate intermediate rating is assigned based on the benchmarks scores.

(4) After a score is determined for each category, the scores are added. The sum of the scores is changed to 100 if it is less than 110 and is reduced to 300 if it exceeds 300. The adjusted score is decreased by 100, and the remainder is divided by 100. The result is the factor used in section (2) of this rule.

(5) The categories, their weights, and standards for their ratings are as follows:

(a) Level of medical care — weight is 7:

(A) Child requires on-site medical attention by a licensed medical or mental health professional and the child care provider must have specialized training related to the child's medical or mental health needs — rating of 10.

(B) The provider must have specialized training related to the child's medical or mental health needs and consults frequently with a medical or mental health professional — rating of 8.

(C) Child requires medical attention by a caregiver who has received some specialized training related to the child's medical or mental health needs — rating of 4.

(D) Child requires medical attention or monitoring by a caregiver who has received special instructions from the parent or a service provider related to the child's medical or mental health needs — rating of 1.

(E) Child's needs can be met by staff with general knowledge — rating of zero.

(b) Self-sufficiency with daily tasks — weight is 5:

(A) Child requires total assistance with eating or toileting, such as requiring tube feedings or with special toileting needs, such as ostomy care — rating of 10.

(B) Child requires considerable assistance in eating or toileting — rating of 5.

(C) Child requires only minor assistance with eating or toileting — rating of 1.

(D) Child can take care of daily tasks with very little assistance — rating of zero.

(c) Mobility — weight is 5:

(A) Child is unable to help with positioning or movement, needs frequent repositioning, and the child is difficult to move — rating of 10.

(B) Child can help with transfers, pivoting and position — rating of 5.

(C) Child is able to move independently with minor support — rating of 1.

(D) Child's mobility is similar to other children of the same age — rating of zero.

(d) Communication skills — weight is 6:

(A) Child is unable to communicate needs and wants, and is unable to use alternative communication methods — rating of 10.

(B) Child relies entirely upon alternative methods such as sign language, picture boards, gestures, or facial expressions, to communicate the child's needs or to understand requests made of the child — rating of 8.

(C) Child has limited verbal skills. The child may require one-on-one communication to gain the child's attention, simplify

instructions, or to understand the child's speech or gestures. Child may use alternative methods, mentioned in paragraph (B) of this sub-section, as a supplement to verbal skills — rating of 4.

(D) Child's communication skills are roughly similar to other children of the same age — rating of zero.

(e) Need for monitoring and intervention — weight is 11:

(A) The child must remain within the child care provider's direct view at all times and needs frequent intervention to prevent harm to self or other children — rating of 10.

(B) The child must remain within the provider's direct view at all times but does not need frequent intervention — rating of 7.

(C) Child has behaviors that frequently require adult intervention but are not a threat to the child's or other children's safety — rating of 4.

(D) Child needs assistance to initiate, respond to, or engage in peer interactions that are safe, positive, and appropriate — rating of 2.

(E) Child needs some assistance but generally does well if the assistance is provided — rating of zero.

(f) Cognition and comprehension — weight is 7:

(A) Child is unable to recognize danger, is unable to follow instructions without one-on-one assistance, and has difficulty processing basic sensory information about the environment. This does not include vision or hearing as the primary difficulty — rating of 10.

(B) Child needs to be given one instruction at a time and may need reminders of what was asked in order to complete instruction — rating of 5.

(C) Child is able to understand and solve problems with some special attention — rating of zero.

(g) Other special considerations — weight is 5. There are other considerations relating to the level of supervision required for the child that are not included in the above categories. A rating is determined based on how much more supervision the child needs — because of the other consideration — than other children of the same age.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 22-2001, f. & cert. ef. 10-1-01

461-155-0180

Income Standards; Not OSIP, OSIPM, QMB

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level or state median income.

(2) A monthly income standard set at 100 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 133 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 150 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 163 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard set at 185 percent of the 2015 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(7) A monthly income standard set at 200 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(8) A monthly income standard set at 250 percent of the 2015 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(9) A monthly income standard set at 85 percent of the 2015 state median income is set at the following amounts: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.014, 412.049

Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 4-2010, f. & cert. ef. 3-31-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2011(Temp), f. & cert. ef. 1-20-11 thru 7-19-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 2-2012, f. & cert. ef. 1-25-12; SSP 3-2013, f. & cert. ef. 1-30-13; SSP 5-2013(Temp), f. & cert. ef. 2-1-13 thru 7-31-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 2-2014, f. 1-31-14, cert. ef. 2-1-14; SSP 7-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-155-0190

Income and Payment Standards; SNAP

(1) The monthly SNAP Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The SNAP Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98; cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 34-2013, f. & cert. ef. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-155-0210

Payment Standard; GA, GAM

The payment standard in the GA and GAM programs is \$0.

Stat. Auth.: ORS 409.050 & 411.060

Stats. Implemented: ORS 411.010, 411.060, 411.710, 411.730 & 411.740

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1993(Temp), f. & cert. ef. 9-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 16-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-1996(Temp), f. 1-30-96, cert. ef. 2-1-96; AFS 10-1996, f. 3-27-96, cert. ef. 4-1-96; AFS 11-1997(Temp), f. & cert. ef. 8-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-1999, f. 7-29-99, cert. ef. 8-1-99; AFS 19-2000, f. 7-31-00, cert. ef. 8-1-00; AFS 16-2001(Temp), f. & cert. ef. 8-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2005(Temp), f. & cert. ef. 8-29-05 thru 2-25-06; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06

461-155-0225

Income Standard; REFM

In the REFM program, the income standard is 200 percent of the federal poverty level, as listed in OAR 461-155-0180(7), based on the size of the need group (see OAR 461-110-0630).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 414.231

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 2-2004(Temp), f. & cert. ef. 2-13-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 2-2005, f. & cert. ef. 2-18-05; SSP 1-2006, f. & cert. ef. 1-24-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert.

ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 31-2010(Temp), f. & cert. ef. 9-15-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-155-0250

Income and Payment Standard; OSIPM

(1) An individual who is assumed eligible per OAR 461-135-0010(6) is presumed to meet the income limits for the OSIPM program.

(2) An individual in a nonstandard living arrangement (see OAR 461-001-0000) meeting the requirements of 461-135-0750, who is not assumed eligible and does not meet the income standards set out in section (4) of this rule, must have countable (see 461-001-0000) income that is equal to or less than 300 percent of the full SSI standard for a single individual (except OSIPM-EPD) or have established a qualifying trust as specified in 461-145-0540(9)(c).

(3) The OSIPM (except OSIPM-EPD) adjusted income standard takes into consideration the need for shelter (housing and utilities), food, and other items. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(4) An individual, other than one identified in section (1), (2), or (6) of this rule, must have adjusted income below the standard in this section. The Department determines the adjusted number in the household under OAR 461-155-0020. [Table not included. See ED. NOTE.]

(5) In the OSIPM (except OSIPM-EPD) program, an individual in a nursing facility or an ICF-MR is allowed the following amounts for clothing and personal incidentals:

(a) For an individual who receives a VA pension based on unreimbursed medical expenses (UME), \$90 is allowed.

(b) For all other individuals, \$60 is allowed.

(c) For an individual identified in subsection (b) of this section with countable income (including any SSI) that is less than \$60, the payment standard is equal to the difference between the individual's countable income (including any SSI) and \$60. For the purposes of this subsection, countable income includes income that would otherwise be countable for an individual who is assumed eligible under OAR 461-135-0010.

(6) In the OSIPM-EPD program, the adjusted earned income limit is 250 percent of the federal poverty level for a family of one.

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

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704 & 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704 & 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; Suspended by SSP 3-2007(Temp), f. & cert. ef. 3-9-07 thru 6-30-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; Suspended by SSP 5-2007(Temp), f. 3-30-07, cert. ef. 4-1-07 thru 6-30-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 2-2009(Temp), f. 2-27-09, cert. ef. 3-1-09 thru 8-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 5-2012(Temp), f. & cert. ef. 2-1-12 thru 7-30-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 17-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 4-2015, f. & cert. ef. 1-1-15

461-155-0270**Room and Board Standard; OSIPM**

For an OSIPM program client in a community based care (see OAR 461-001-0000) facility, the room and board standard is \$570.00. A client residing in a community based care facility must pay room and board.

Stat. Auth.: ORS 411.060, 411.070, 411.704 & 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704 & 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 13-2000, f. & cert. ef. 5-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 1-2013(Temp), f. & cert. ef. 1-8-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 4-2015, f. & cert. ef. 1-1-15

461-155-0290**Income Standard; QMB-BAS**

The adjusted income standard for the QMB-BAS program is 100 percent of the 2015 federal poverty level. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12; SSP 6-2013, f. & cert. ef. 3-1-13; SSP 4-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 7-2014, f. & cert. ef. 3-7-14; SSP 8-2015, f. 2-27-15, cert. ef. 3-1-15

461-155-0291**Income Standard; QMB-DW**

The adjusted income standard for the QMB-DW program is 200 percent of the 2015 federal poverty level (see OAR 461-155-0290).. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12; SSP 6-2013, f. & cert. ef. 3-1-13; SSP 4-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 7-2014, f. & cert. ef. 3-7-14; SSP 8-2015, f. 2-27-15, cert. ef. 3-1-15

461-155-0295**Income Standard; QMB-SMB, QMB-SMF**

(1) Eligibility for QMB-SMB requires income greater than 100 percent (see OAR 461-155-0290) but less than 120 percent of the federal poverty level. The adjusted income standard for QMB-SMB is 120 percent of the 2015 federal poverty level. [Table not included. See ED. NOTE.]

(2) Eligibility for QMB-SMF requires income equal to or greater than 120 percent (see section (1) of this rule) but less than 135 percent of the federal poverty level. The adjusted income standard for QMB-SMF is 135 percent of the 2015 federal poverty level. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12; SSP 6-2013, f. & cert. ef. 3-1-13; SSP 4-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 7-2014, f. & cert. ef. 3-7-14; SSP 8-2015, f. 2-27-15, cert. ef. 3-1-15

461-155-0300**Shelter-in-Kind Standard**

In the OSIP, OSIPM, and QMB programs, the Shelter-in-Kind Standard is:

(1) For a single individual:

(a) Living alone, \$450 for total shelter or \$270 for housing costs only.

(b) Living with others, \$208 for total shelter or \$125 for housing costs only.

(2) For a couple:

(a) Living alone, \$557 for total shelter or \$334 for housing costs only.

(b) Living with others, \$206 for total shelter or \$124 for housing costs only.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 25-1991, f. & cert. ef. 1-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 17-1993(Temp), f. & cert. ef. 9-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 4-2015, f. & cert. ef. 1-1-15

461-155-0310**Special Shelter Allowance; REF, TANF**

The Special Shelter Allowance is included in the REF and TANF Payment. It is an advance of the ERA refund per ORS 412.155:

Special Shelter Allowance:

No. in Need Group — Amount

1 — \$22.35.

2 — 22.35.

3 — 21.14.

4 — 20.34.

5 — 19.53.

6 — 18.73.

7 — 17.92.

8 — 17.12.

9 — 16.32.

10 or more — 14.71.

461-155-0320

Payment Standard; SFPSS

In the SFPSS program the following payment standards apply:

(1) When one adult in the filing group (see OAR 461-110-0330) is applying for SSI: [Table not included. See ED. NOTE.]

(2) When two adults in the filing group are applying for SSI: [Table not included. See ED. NOTE.]

(3) The standard for eleven individuals or more in the need group (see OAR 461-110-0530) is the sum of the Adults Amount for ten individuals in the need group, plus the Family Payment for ten individuals in the need group, plus \$110 for each additional individual in the need group.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.014, 412.049

Stats. Implemented: ORS 409.050, 411.060, 411.070, 412.006, 412.014, 412.049

Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 24-2011(Temp), f. & cert. ef. 8-19-11 thru 2-15-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12

461-155-0350

Minimum Contribution Standard

The Minimum Contribution Standard is used to determine which portion of a lodger's income is excluded for REF, REFM, and TANF. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.083, 411.085, 411.404, 412.006, 412.049

Stats. Implemented: ORS 411.070, 411.081, 411.083, 411.085, 411.404, 412.006, 412.049

Hist.: AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-155-0360

Pursuit of Cost-Effective Employer Sponsored Health Insurance

(1) This rule applies to the following medical assistance programs: CEM, EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), and OSIPM and is for the purpose of applying OAR 461-120-0345.

(2) The Health Insurance Group (HIG) determines if employer sponsored health insurance meets the criteria as cost effective for the purpose of OAR 410-120-1960.

(3) If the insurance is determined to be cost effective and the client or eligible applicant pursues the insurance, HIG will authorize reimbursement of the client or eligible applicant's portion of the premium per OAR 410-120-1960.

(4) If the insurance is determined to be cost effective and the client or eligible applicant fails to pursue cost effective employer sponsored insurance, the Department will apply a penalty per OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 414.042

Stats. Implemented: ORS 411.060, 414.042

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 16-2014, f. & cert. ef. 7-1-14

461-155-0500

Special Needs; Overview

(1) Ongoing special needs are needs that last several months at a consistent cost. Examples are special diets and accommodation allowances. OAR 461-155-0010 is used to determine how special needs are considered for each program.

(2) To be eligible for a special need item, a client may not have any other available resources in the community or natural support system to meet the need, excluding resources used in determining eligibility.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 412.006, 412.049 &

412.155

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 412.006, 412.049

& 412.155

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef.

5-1-92

(3) To be eligible for a special need item, a client may not be eligible for the item through Medicare, Medicaid, or any other medical coverage.

(4) A client may be eligible for an ongoing special need item if providing the ongoing special need item is authorized in lieu of additional provider service hours pursuant to OAR 411-030-0002 to 411-030-0090 and is more cost-effective.

(5) The Department may authorize payment for one-time and ongoing special needs for the following, in accordance with OAR 461-155-0510 to 461-155-0710:

(a) One-time needs for the following:

(A) Community based facility room and board (see OAR 461-155-0630).

(B) Community transition services (see OAR 461-155-0526).

(C) Diversion and transition services (see OAR 461-155-0710).

(D) Home adaptations to accommodate a client's physical condition (see OAR 461-155-0551).

(E) Home repairs (see OAR 461-155-0600).

(F) Moving costs (see OAR 461-155-0610).

(G) Property taxes (see OAR 461-155-0620).

(b) Ongoing needs for the following:

(A) Accommodation allowances (see OAR 461-155-0660).

(B) Food for guide dogs and special assistance animals (see OAR 461-155-0530).

(C) In-home supplement (see OAR 461-155-0575).

(D) Laundry allowances (see OAR 461-155-0580).

(E) Personal incidentals and room and board allowance (see OAR 461-155-0700).

(F) Restaurant meals (see OAR 461-155-0640).

(G) Special diet allowances (see OAR 461-155-0670).

(H) Telephone allowances (see OAR 461-155-0680).

(I) Prescription drug co-pay coverage (see OAR 461-155-0688).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 21-2008(Temp), f. & cert. ef. 10-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-155-0510

Special Need in Combined OSIP/REF/TANF Cases

(1) For OSIP and OSIPM families who receive other cash program benefits, any special need that can be met through the other benefit payment will not be met in the OSIP benefit.

(2) When a special need item is for an individual, rather than a benefit group, include the special need item in the program from which the individual is receiving benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.083, 411.085, 411.404, 411.706, 411.816, 412.006, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.083, 411.085, 411.404, 411.706, 411.816, 412.006, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-155-0526

Special Need; Community Transition Services; OSIP and OSIPM

(1) In the OSIP and OSIPM programs, the Department will authorize one-time payments for allowable expenses necessary for a client to set up housing in Oregon in the client's own home or apartment, or an assisted living facility as long as the facility is not required to provide the item covered by the payment by contract or by the administrative rules governing assisted living facilities (OAR 411-054-0000 to 411-054-0300). Payments are allowed only for a client returning to the community if the client meets the criteria for one of the service priority levels served by the Department according to OAR 411-015-0015(1):

(a) A client leaving a nursing facility.

(b) A client who has been admitted as an inpatient and is leaving an acute care hospital.

(2) Examples of allowable expenses are expenses for: moving belongings; housing security deposits; essential furnishings; eating utensils; food preparation items; deposits for utility hook-ups for heat, electricity, and telephone; climate control; and health and safety measures such as pest eradication or allergen control.

(3) Expenses not allowed include: rent for housing or temporary housing; ongoing utility costs; medical supplies such as lift chairs, reachers, grabbers, wheelchairs, and transfer trays; or recreational items such as a television or cable television access.

(4) Payment will be authorized only for the minimum amount necessary to establish the client's basic living arrangement.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09

461-155-0530

Special Need; Food for Guide Dogs and Special Assistance Animals

(1) For an OSIP or OSIPM program client receiving SSI, having an adjusted income less than the OSIPM program standard under OAR 461-155-0250, or receiving home and community-based care (see OAR 461-001-0030), a food allowance is allowed for guide dogs and special assistance animals that are individually trained to:

(a) Meet the client's specific medical needs by performing tasks, such as alerting and protecting a client who is having a seizure; or

(b) Perform specific physical tasks that the client is unable to do, such as picking up items that are dropped, turning on light switches, and pulling a wheelchair.

(2) The maximum amount the Department authorizes for this special need is \$50 per month.

(3) Authorization of this special need must be based on a proven medical need to sustain the client's independence.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0551

Special Need; Home Adaptations to Accommodate a Client's Physical Condition

(1) In the OSIP and OSIPM programs, the Department will authorize — consistent with the restrictions in this rule — a one-time special needs payment for a home adaptation required by the client's care plan, if the adaptation is needed to accommodate the client's physical condition and prevent the client's placement in a nursing facility.

(2) For a home adaptation:

(a) The client must be the owner or buyer of the house.

(b) The adaptation must cost less than moving to another home.

(c) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.

(d) Providers of the adaptations must ensure that the work being completed meets current building codes.

(e) Adaptations authorized by this rule include only changes to the structure of the building, such as installation of ramps, grab-bars, and railings; widening of doorways; modification of bathroom facilities; and installation of electric and plumbing systems

necessary to accommodate the client's medical equipment or supplies.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04

461-155-0575

Special Need; In-home Supplement; OSIPM

In the OSIPM program:

(1) The Department may provide a monthly supplementary payment for a client who meets the requirements of all of the following subsections:

(a) The client must receive SSI as his or her only source of income.

(b) The client must receive home and community-based care (see OAR 461-001-0030) in-home services or State Plan Personal Care Services authorized under chapter 411, division 034 of Oregon Administrative Rules.

(2) An eligible client (under section (1) of this rule) receives a \$15 monthly payment. The payment is considered reimbursement for uncovered assistance needs.

Stat. Auth.: ORS 411.060, 411.070, 411.404 & 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704 & 411.706

Hist.: SSP 11-2011(Temp), f. 3-31-11, cert. ef. 4-1-11 thru 9-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 21-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; SSP 31-2011(Temp), f. & cert. ef. 12-1-11 thru 1-11-12; Administrative correction, 2-6-12; SSP 33-2012(Temp), f. 10-31-12, cert. ef. 11-1-12 thru 4-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 18-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0580

Special Need; Laundry Allowances

(1) OSIP and OSIPM clients who are receiving SSI or home and community-based care (see OAR 461-001-0030) or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250, and GA and GAM clients, are eligible for a laundry allowance if they have proven, excessive, coin-operated laundry facility costs and do not:

(a) Have their own laundry facilities; or

(b) Reside in an adult foster care home, assisted living facility, nursing facility, residential care facility, or specialized living facility, unless the specialized living facility is apartment based.

(2) This allowance may not exceed the amount required to wash and dry the laundry.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0600

Special Need; Home Repairs, GA, OSIP, and OSIPM

In the GA, OSIP, and OSIPM programs, the Department will authorize a special need payment for home repairs for homeowners or buyers as a one-time special need within the following limits:

(1) The repairs must be needed to remove a physical hazard to the health and safety of the client.

(2) Payment for repairs authorized by this rule:

(a) Is limited to the least expensive means possible;

(b) Cannot exceed \$1,000 in any 24-month period; and

(c) When the home is jointly owned, is limited to a percentage of the cost of the repairs equal to the percentage of client ownership.

(3) The repairs must cost less than moving to another home.

(4) Payment is limited to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless there are not three providers of the service in the local area.

(5) Before approving payment for repairs or new installations, the Department must consider the use value and determine whether

it is consistent with the service plan for the client to remain in the house.

(6) Providers of the repairs or new installations must ensure that the work being completed meets current building codes.

(7) Repairs or replacements include, but are not limited to:

(a) Electrical wiring that does not constitute conversion to electrical space heating but that is needed:

(A) To avoid condemnation; or

(B) To remove a definite fire or shock hazard as documented by appropriate public officials.

(b) Plumbing — but not including the costs of plumbing items with which the house is not already equipped except that a toilet may be paid for when newly required by the creation or extension of a sewer district. Examples of what plumbing-related items may be covered include:

(A) Toilets and sinks.

(B) Cleaning or replacing septic tanks or cesspools.

(C) Installing sewer connections from house to street — but not sewer installation — if required by the creation of a new sewer district or the extension of an existing district.

(c) Repair or replacement of existing electric pumps for wells needed to continue the water supply. This does not include drilling a new well.

(d) Heating equipment — repair of heating stoves, furnaces and water heaters and, if repair is not possible, replacement with the least expensive adequate equipment.

(e) Repair of roofs.

(f) Repair or replacement of steps and repair of floors.

(8) A client with a life estate is not eligible for this special need allowance. The individual who will benefit from the life estate, following the death of the client, is considered responsible for the home repairs.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09

461-155-0610

Special Need; Moving Costs; GA, OSIP, OSIPM

For clients who are 18 years of age or older in the GA, OSIP, and OSIPM programs:

(1) The Department will authorize payment for the cost of moving a client's household effects as a one-time special need if the requirements of at least one of the following subsections are met:

(a) Moving is essential to provide nonhazardous housing. "Hazardous" housing means a building so deteriorated and unsafe that it is uninhabitable or subject to condemnation. If no official certification to that effect can be obtained, the condition of the dwelling must have been seen by a Department employee and documented in the case record.

(b) The client has been evicted for reasons other than his or her own neglect or failure to make rent or house payments.

(c) The move is a result of domestic violence or protective services.

(d) For a client in a nonstandard living arrangement (see OAR 461-001-0000), the client must move because the level of needed services increases or decreases.

(e) The needs of the client would be better met out of state.

(2) Payment for moving costs authorized by this rule:

(a) May be authorized for not more than one move in any 12-month period;

(b) Is limited to the least expensive means possible; and

(c) Cannot exceed \$500 in any 12-month period.

(3) Payments necessary for a one-time move may be made over a period not to exceed 30 consecutive days.

(4) A filing group that has received a payment for moving costs under this rule is not eligible for a moving cost payment again

until the first day of the 12th month following the first payment that was made for the most recent month.

Stat. Auth.: ORS 411.060, 411.070, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-155-0620

Special Need; Property Taxes

(1) GA, OSIP and OSIPM clients who are homeowners or buyers are allowed a special need of one year of delinquent real property taxes, penalties and interest, if needed to prevent imminent foreclosure.

(2) Clients who are eligible for the Oregon Property Tax Deferral Program must opt to defer property taxes. If necessary, the state may provide payment for back property taxes, to bring the tax current, to allow clients to defer their ongoing property taxes.

(3) Clients who have not chosen to defer their property taxes, and have failed to pay their property taxes, will not receive a property tax special need payment unless the exception is authorized by the Department's Estate Administration Unit. The exception will be based on the value of the property, the potential of foreclosure and the potential of an Estates Administration Unit recovery of such property.

(4) "Imminent foreclosure" is indicated by a formal notice of foreclosure.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706 & 411.710

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706 & 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 12-1993, f. & cert. ef. 7-1-93

461-155-0630

Special Need; Community Based Care; OSIPM

In the OSIPM program:

(1) A client is considered living in a community based care facility (see OAR 461-001-0000) if the client resides at one of the following care settings licensed by the Department:

- (a) Adult Foster Care.
- (b) Residential Care.
- (c) Assisted Living.
- (d) Specialized Living.
- (e) Group Care Home.

(2) In determining eligibility for OSIPM for an individual receiving care 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 special need (see OAR 461-155-0010) is the amount of the service payment authorized by the Department and is added to the OSIP maintenance standard.

(3) If a client who meets the applicable income requirements begins living in a community based care facility:

(a) Payment for room and board may be authorized during the month of admission at the initial placement, limited to the approved rate.

(b) Room and board payments may be paid to the community based care facility during the temporary absence of a client if all of the following criteria are met:

(A) The absence occurs because the client is admitted to a hospital or nursing home.

(B) The Department determines the intent of the client to return to the community based care facility.

(C) The community based care facility is willing to accept the room and board payment.

(D) The client returns one month following the month in which the absence began.

(4) Spouses who each receive SSI and receive services in a community based care facility, are eligible for a payment in the amount that equals the difference between the OSIPM standard for a one-person need group and the individual's total countable

income. If one spouse has income above the OSIPM standard, the

excess income is applied to the other spouse's countable income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. &

cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-

92, cert. ef. 2-1-92; AFS 13-1994, f. & cert. ef. 7-1-94; SSP 22-2004, f. & cert.

ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert.

ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f.

& cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0640

Special Need; Restaurant Meals

(1) To receive the restaurant meals special need payment, OSIP and OSIPM clients who are receiving SSI, home and community-based care (see OAR 461-001-0030), or have adjusted income less than the OSIPM program income standard under OAR 461-155-0250 — and GA and GAM clients — must have proven medical and nutritional needs that cannot be met with meals purchased with SNAP program benefits.

(2) A client living in his or her own home who is unable to prepare his or her own meals, but is eligible for SNAP program benefits, may have his or her meals prepared by attendants that volunteer or are compensated by the Seniors and People with Disabilities Division In-Home Services program. A client also may receive, if eligible, Meals on Wheels services to supplement his or her diet.

(3) The payment standard for restaurant meals is \$60 per month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0660

Special Need; Accommodation Allowance

(1) An OSIP or OSIPM program client living in a nursing facility is not eligible for an accommodation allowance. An OSIP or OSIPM program client living in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for an accommodation allowance unless he or she is receiving, or is eligible to receive after a temporary absence, home and community-based care (see OAR 461-001-0030) in-home services. An OSIP or OSIPM program client receiving SSI or having an adjusted income less than the OSIPM program income standard (except a client in a nursing facility) or eligible to receive or receiving home and community-based care in-home services is allowed an accommodation allowance if the client is 18 years of age or older and meets the criteria in section (2) or (3) of this rule.

(2) Temporary absence of client from home.

(a) A temporary accommodation allowance may be authorized, when permitted under section (1) of this rule, if a client meets the following criteria:

(A) The client leaves his or her home or rental property and enters an adult foster care facility, assisted living facility, group care home, hospital, nursing facility, residential care facility, specialized living facility, or state psychiatric institution;

(B) The client cannot afford to keep the home without the allowance;

(C) The client will be able to return home within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN; and

(D) The home will accommodate the service plan of the client when the client returns.

(b) The allowance may be authorized for six months. If, after six months, the client continues to meet the criteria in subsection (a) of this section, an extension may be approved in writing by a supervisor.

(c) The accommodation allowance equals 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.

(3) Additional cost for accommodation. A client meeting the criteria in section (1) of this rule may receive an accommodation allowance if the client's shelter cost exceeds the shelter standard in OAR 461-155-0250(2) and the requirements of one of the following subsections are met:

(a) The client has a documented increase in rent associated with access by an individual with a disability; or

(b) The client has been assessed to need a live-in provider, has accepted the services of a live-in provider, and requires an additional bedroom for the live-in provider.

(4) The accommodation allowance is determined as follows:

(a) For a client who receives an accommodation allowance based on increased costs associated with access by an individual with a disability, only the additional increase in cost for the accommodation is allowed.

(b) For a client who receives an accommodation allowance based on the need for an additional bedroom for a live-in provider, the amount of the accommodation allowance is the limited standard utility allowance for the SNAP program under OAR 461-160-0420 plus:

(A) One-third of the monthly rental cost; or

(B) One-third of the monthly payment on the property agreement (including mortgage, trust deed, or land sale contract). The property agreement is the agreement existing at the time the client is approved for the accommodation allowance. The accommodation allowance for the housing portion ends if the debt is refinanced, unless the refinancing was done only to reduce the original property agreement's interest rate or total monthly payment amount and the owner realized no direct or indirect payment of the home's equity value from the refinancing.

(i) If the refinancing requirement under this paragraph is met, the amount of the accommodation allowance is one-third of the refinanced property agreement amount plus the limited standard utility allowance under OAR 461-160-0420.

(ii) If the refinancing requirement under this paragraph is not met and the housing portion of the accommodation allowance ends, the client remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.

(5) Special requirements.

(a) A client who rents and qualifies for an allowance under section (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. A client who fails, at any time, to take the steps necessary to obtain subsidized housing reasonably available is ineligible for the allowance. A client, who has been denied or revoked from participation in any rent subsidy program based on the client's own actions is ineligible for benefits under this rule.

(b) A client who rents housing and refuses subsidized housing will no longer be eligible for an accommodation allowance, except that if the housing that is offered is not suitable, related to accommodations, and the client continues to have increased costs related to accommodations in the client's current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Stat. Auth.: ORS 411.060, 411.070, 411.704, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-155-0670

Special Need; Special Diet Allowance

(1) In the GA, GAM, OSIP, OSIPM, REF, REFM, SFPSS, and TANF programs, a client is not eligible for a special diet allowance if receiving any of the following:

(a) Room and board.

(b) Residential care facility services or assisted living facility services.

(c) Nursing facility services.

(d) Adult foster care services.

(e) An allowance for restaurant meals.

(f) A commercial food preparation diet.

(2) A GA, GAM, REF, REFM, SFPSS, or TANF client, or an OSIP or OSIPM client receiving SSI, having an adjusted income less than the OSIPM program income standard under OAR 461-155-0250, or receiving in-home services is eligible for a special diet allowance if the client meets the following requirements:

(a) The client would be in an imminent life-threatening situation without the diet, as verified by medical documentation from a Department-approved medical authority (see OAR 461-125-0830); and

(b) A nutritionist verifies that the special diet needed exceeds the cost of a regular diet.

(3) The amount of a special diet allowance is calculated as follows:

(a) In the REF, REFM, SFPSS, and TANF programs, the difference between the actual cost of the special diet and a prorated share of the SNAP program benefit for the appropriate number of clients in the benefit group (see OAR 461-110-0750).

(b) In the GA, GAM, OSIP, and OSIPM programs, the lesser of the following:

(A) The difference between the actual cost of the special diet and the amount provided in the basic standard for food (see OAR 461-155-0250).

(B) A maximum of \$300 per month, or an exceptional amount, authorized by the SPD Program Assistance Section, which will not exceed the cost of home IV therapy.

(4) Local management staff must approve the request for a special diet allowance.

(5) Each special diet allowance must be reviewed at six-month intervals.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-155-0680

Special Need — Supplemental Telephone Allowance; OSIPM

In the OSIPM program:

(1) The Department provides a telephone allowance for a client receiving SSI, a client with an adjusted income less than the OSIPM program standard under OAR 461-155-0250, or a client receiving in-home services if the client is 18 years of age or older and is unable to leave his or her residence without assistance due to a documented medical condition.

(2) The telephone allowance may cover the following costs:

(a) The least expensive appropriate telephone service or the basic rate, whichever is less.

(b) The cost of telephone adaptive equipment, if the client has a medically documented need (for instance, TDD, a special headset, dialing mechanism, or emergency response system).

(c) Necessary installation charges.

(3) An SSI-eligible client or a client with an adjusted income less than the OSIPM program standard granted a telephone allowance must apply for a payment through the Oregon Telephone Assistance Program (OTAP).

Stat. Auth.: ORS 411.060, 411.070, 411.706

Stats. Implemented: 411.060, 411.070, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12

461-155-0688

Prescription Drug Co-pay Coverage

In the OSIPM program for a client who is receiving SSI:

(1) The Department will provide a payment for all Medicare Part D or Veteran's Administration Health Care prescription co-pays if a client's co-pays exceed \$10 per month.

(2) Payment for Medicare Part D co-pays is limited to the current Low-Income Subsidy (LIS) program amounts for a fully dual eligible individual under 100 percent of the Federal Poverty Limit.

(3) If the payment exceeds \$30 per month, it must be approved by Seniors and People with Disabilities Division central office staff.

Stat. Auth.: ORS 411.060, 411.083, 411.706

Stats. Implemented: ORS 411.060, 411.083, 411.704, 411.706

Hist.: SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 33-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-155-0700

Special Need; Personal Incidentals and Room and Board Allowances; OSIPM

In the OSIPM program:

(1) In the following circumstances, personal incidentals and room and board allowances may be paid for an individual to reside in a *community based care facility* (see OAR 461-155-0630) to avoid placement in a nursing facility or leave a nursing facility or an acute care hospital, when an individual meets the requirements of one of the following subsections:

(a) Is determined to be eligible based on a disability determination made by the Department (see OAR 461-125-0370).

(A) To receive this payment, the individual must pursue SSI by making application with the Social Security Administration (SSA) and appealing denials until SSA makes a final administrative decision. If SSI is denied at the final SSA administrative level, the individual is no longer eligible for this payment.

(B) The payment is the difference between the *countable* (see OAR 461-001-0000) income of the individual and the OSIPM program adjusted income standard (see OAR 461-155-0250).

(b) Is leaving a nursing facility and limited to a maximum SSI payment of \$30 or to a maximum Veterans benefit payment of \$90. The payment is the difference between the *countable* income of the individual and the OSIPM program adjusted income standard (see OAR 461-155-0250).

(c) Is a *qualified non-citizen* under OAR 461-120-0125 who is not eligible for SSI due to not meeting the requirements to become a naturalized citizen within the SSI time limit.

(A) The individual must pursue naturalization.

(B) The payment is the difference between the *countable* income of the individual and the OSIPM adjusted income standard (see OAR 461-155-0250).

(d) Does not have sufficient income to divert to the *community spouse* (see OAR 461-001-0030) due to the difference between the personal needs allowance related to a nursing facility placement and the personal needs allowance and room and board related to a *community based care facility* placement. The allowance is issued only when the individual or *community spouse* requests or chooses a nursing facility placement rather than a *community based care facility* placement because the *community spouse* needs the resulting higher diversion amount to meet his or her monthly expenses.

(A) For all individuals, the allowance is the difference between the amount of the individual's income that would be available to divert to the *community spouse* under a nursing facility placement and the amount of the individual's income available under the *community based care facility* placement, using the liability calculation as outlined in OAR 461-160-0620.

(B) For an individual whose income is less than the adjusted OSIPM program standard, the allowance is the amount calculated under paragraph (A) of this subsection plus the difference between the OSIPM program adjusted income standard and the individual's *countable* income.

(2) The payment amount is prorated in the first month for an individual who moves to a *community based care facility* on any day other than the first day of the month.

Stat. Auth.: ORS 411.060, 411.070, 411.704 & 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704 & 411.706

Hist.: SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 5-2010, f. & cert. ef. 4-1-10

461-155-0710

Special Need; Diversion and Transition Services; OSIP and OSIPM

In the OSIP and OSIPM programs:

(1) The Department may authorize one-time payments for expenses that the Department has determined are necessary to divert or transition individuals from nursing facility services. Payments are allowed for clients who are receiving or eligible to receive community based care (see OAR 461-001-0000).

(2) Payments will be authorized at the lowest possible cost.

(3) To be eligible for payment, clients may not be eligible for the item through Medicare, Medicaid, or any other medical coverage.

(4) Payment for a household item is not allowed if the community based care facility is required to provide the item by contract or administrative rule.

(5) Payment is not allowed if the item or service may be provided under any other special need rule in this division (OAR 461-155-0510 to 461-155-0700).

Stat. Auth.: ORS 409.050, 411.060 & 411.070

Stats. Implemented: ORS 409.010, 411.060 & 411.070

Hist.: SSP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2013, f. & cert. ef. 7-1-13

DIVISION 160

**DETERMINING FINANCIAL ELIGIBILITY
AND CALCULATING BENEFIT LEVEL**

461-160-0010

Use of Resources in Determining Financial Eligibility

Countable (see OAR 461-001-0000) resources are used to determine eligibility 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 GA, GAM, QMB, REF, 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 (OAR 461-160-0015).

(3) In the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) 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.

(a) When a child (see OAR 461-001-0000) is applying, the parental resources are deemed available to the child. The amount deemed available to the child is the amount the parental resources exceed the resource limit (OAR 461-160-0015) of:

(A) A one person need group, if one parent lives in the child's household; or

(B) A two person need group, if two parents (or one parent and the spouse of that parent) live in the child's household.

(b) As used in this section, parental resources mean the countable resources of:

(A) Each parent in the child's financial group, and

(B) Each spouse of a parent in the child's financial group.

(c) If more than one child is applying, the value of the deemed resources is divided evenly between the applying children.

(d) The parental resources are not deemed available to an ineligible child.

(e) 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 (see OAR 461-110-0630) is not eligible for benefits if the financial group has countable resources above the resource limit (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.

Stat. Auth.: ORS 411.060, 411.400, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.117, 411.400, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2013(Temp), f. & cert. ef. 4-10-13 thru 10-7-13; SSP 24-2013, f. & cert. ef. 10-1-13

461-160-0015

Resource Limits

(1) In the EA program, all countable (see OAR 461-001-0000) resources must be used to meet the emergent need.

(2) In the ERDC and REFM programs, there is no resource limit.

(3) In the GA, GAM, OSIP, and OSIPM programs, the resource limit is as follows:

(a) \$2,000 for a one-person need group (see OAR 461-110-0630) and \$3,000 for a two-person need group.

(b) \$1,000 for an OSIP need group eligible under OAR 461 135 0771. The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(c) \$5,000 is the limit for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).

(4) In the REF and TANF programs, the resource limit is:

(a) \$2,500 for any of the following:

(A) A new REF or TANF applicant for benefits.

(B) REF and TANF need groups which do not have at least one caretaker relative (see OAR 461-001-0000) or parent (see OAR 461-001-0000) who is receiving TANF.

(C) REF and TANF need groups which have at least one JOBS participant who is:

(i) Receiving TANF and not progressing in an activity (see OAR 461-001-0025) of an open JOBS case plan (see 461-001-0025); or

(ii) Serving a current JOBS disqualification (see OAR 461-130-0330).

(b) \$10,000 for a need group not covered under subsection (a) of this section.

(5) In the QMB program, the resource limit is amended in January of each year based on the low income subsidy for Medicare Part D as published by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. Effective January 1, 2015 the resource limit is \$7,280 for a one-person need group and \$10,930 for a need group containing two or more individuals.

(6) In the SNAP program, the resource limit is:

(a) \$3,250 for a financial group (see OAR 461-110-0530) with at least one member who is elderly (see 461-001-0015) or an individual with a disability (see 461-001-0015).

(b) \$2,250 for all other financial groups.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 411.837, 412.049, 414.025, 414.231, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. &

cert. ef. 10-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-1; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 27-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 26-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; SSP 4-2015, f. & cert. ef. 1-1-15

461-160-0030

Overview of Costs

(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 in kind 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 third party 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 one of the following methods:

(a) Consider the expenses as actually incurred each month; or

(b) Consider projected medical expenses during a prospective period not to exceed six months. Base the projection on actual expenses experienced in a preceding period (not to exceed six months) and on any expenses expected to be incurred by the individual during the prospective period. Expected expenses cannot be averaged.

Stat. Auth.: ORS 409.050, 411.060, 411.400, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.400, 411.816, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1990, f. & cert. ef. 2-16-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 8-2013, f. & cert. ef. 4-1-13

461-160-0040

Dependent Care Costs; Deduction and Coverage

(1) In the SNAP program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:

(a) The dependent is a member of the filing group and is in the care, control, and custody of an individual in the group.

(b) The dependent care provider:

(A) Is not in the filing group; and

(B) Is not the parent (see OAR 461-001-0000) of the dependent.

(c) The dependent care is necessary because the client is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET case plan (see OAR 461-001-0020).

(2) In the ERDC, REF, and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if dependent child care is necessary for the working client to perform his or her job duties, except in the ERDC program the cost of dependent care is allowed for approved educational hours and child care authorized under section (5) of this rule. For a

client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.

(3) In the ERDC, JOBS, REF, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children.

(4) Child care is not covered in the ERDC, REF, and TANF programs if the nature of the work of the caretaker (see OAR 461-001-0000) does not make it necessary for a person other than the caretaker to provide the care. Child care is not covered during a period of time when the caretaker:

(a) Works at home and the nature of the work allows the caretaker to provide the care without significantly affecting the work;

(b) Provides child care in a residence; or

(c) Works for a provider of child care in a residence, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400.

(5) In the ERDC program the cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period (see OAR 461-001-0000) with no change to the authorized child care hours subject to the following provisions:

(a) When a reduction in work hours occurs the copay may be adjusted.

(b) When a job loss occurs:

(A) When a caretaker has a permanent job loss from all employment the copay is waived for up to three months for a work search period, starting the month after the job loss occurred.

(B) The waiver ends at the end of the three month period if the caretaker becomes employed.

(C) The three month work search period does not apply when:

(i) The adult was discharged or fired without good cause (see OAR 461-135-0070(2)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.

(ii) The adult voluntarily quit in anticipation of discharge or without good cause.

(c) For medical leave:

(A) When a caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830. Maternity leave may be authorized for three months (12 weeks) without medical documentation.

(B) For a decrease or increase in income during or at the end of medical leave see OAR 461-180-0005 and OAR 461-180-0030.

(C) Medical leave and maternity leave can be extended when new verification is received prior to the end of the month noted on the original documentation. Medical leave cannot extend beyond the certification period.

(d) For military transition:

(A) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.

(B) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before the end of the six month period if the caretaker returns to active duty.

(c) Under this section child care may be used for work, work search, approved educational hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.

(6) In the JOBS and REF programs, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0211).

(7) In the ERDC, JOBS, JOBS Plus, REF, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:

(a) The dependent child:

(A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.

(B) In the JOBS, JOBS Plus, REF, and TANF programs, lives with the filing group.

(b) The provider of child care is not in the filing group.

(c) The provider of child care is not the parent of a child in the filing group.

(8) Coverage of the cost of dependent care is subject to the requirements in OAR chapter 461, including OAR 461-120-0510(3), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-160-0055

Medical Costs That are Deductible; GA, GAM, OSIP, OSIPM, SNAP

(1) This rule applies to SNAP filing group (see OAR 461-110-0370) members who are elderly (see OAR 461-001-0015) or who have a disability (see OAR 461-001-0015), and to clients in the GA, GAM, OSIP, and OSIPM programs.

(2) Medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and in this rule.

(3) Health and hospitalization insurance premiums and coinsurance are deductible. In the OSIPM and SNAP programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.

(4) In the OSIPM and SNAP programs:

(a) Long-term care insurance premiums are deductible if the insurance pays for services while an individual is:

(A) Receiving home and community-based care (see OAR 461-001-0030);

(B) Receiving nursing facility services; or

(C) In an intermediate care facility for the mentally retarded (ICF/MR).

(b) A policy that is set up to pay a lump sum, similar to life insurance, is not deductible.

(5) The cost of a medical service is deductible if it is:

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Except in the SNAP program, a medical necessity approved by the Department.

(6) Medical deductions are also allowed for, among other things, the cost of:

(a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.

(b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, the annual fee for a drug prescription card, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) In the SNAP program, such items as the following:

(A) Nursing care, nursing home care, and hospitalization, including payments for an individual who was a member of the filing group immediately prior to entering a hospital or a nursing home certified by the state. Deduction of these payments is also allowed for an individual who was a member of the filing group

immediately prior to death if the remaining filing group members are legally responsible for payment of the expenses.

(B) Services of an attendant, home health aid, housekeeper, or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person SNAP benefit group (see OAR 461-110-0750) if the client furnishes the majority of an attendant's meals.

(C) Prescribed assistance animals (such as a Seeing Eye Dog, Hearing Dog, or Housekeeper Monkey) that have received special training to provide a service to the client. This deduction includes the cost of acquiring these animals, their training, food, and veterinarian bills.

(D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.

(7) In the SNAP program, the following costs, even if prescribed by a medical practitioner, are not allowable medical deductions:

(a) Costs for and related to medical use of marijuana, including registry identification cards.

(b) Costs for items related to special diets which can be purchased with SNAP benefits including, but not limited to, nutritional drinks and organic foods.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 413.085

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 411.837, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 27-2012(Temp), f. & cert. ef. 7-12-12 thru 1-8-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2015(Temp), f. & cert. ef. 3-10-15 thru 9-5-15; SSP 17-2015, f. & cert. ef. 6-30-15

461-160-0060

Use of Rounding in Calculating Benefit Amount

(1) In the REF and TANF programs, a benefit amount not a whole number of dollars is rounded down to the next lower whole dollar.

(2) In the ERDC program, total countable income is rounded down to the next lower whole dollar. The benefit figures are not rounded.

(3) In the GA, GAM, OSIP, OSIPM, and QMB programs, rounding is not used.

(4) In the SNAP program:

(a) Except as provided in subsection (b) of this section, when income and deductions are calculated, a figure ending with less than 50 cents is rounded to the next lower dollar and a figure ending with 50 cents or more is rounded to the next higher dollar.

(b) After multiplying the adjusted income by 30 percent, any amount from 1 to 99 cents is rounded up to the next higher dollar.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
 Stats. Implemented: 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-160-0070

Benefits for Less Than a Full Month

In the GA, OSIP, REF, SNAP and TANF programs, if in a month a benefit group is eligible for less than a full month's

benefits (such as the initial and closing months), benefits for that month are determined as follows:

- (1) The benefit amount for a full month is determined.
- (2) The full benefit amount is divided by the number of days in the payment month to determine the daily benefit.
- (3) The daily benefit is multiplied by the number of days in the month the group is eligible. The result is the benefit amount for the partial month (prorated benefit), except as adjusted by section (4) of this rule.
- (4) Rounding is used in the calculation of the prorated benefit as follows:
 - (a) In the REF, SNAP and TANF programs, if the prorated benefit is not a whole dollar amount, the prorated benefit is rounded to the next lower whole dollar.
 - (b) In the GA and OSIP programs, the prorated benefit is not rounded.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05

461-160-0090

Employment and Independence Expenses; OSIP-EPD and OSIPM-EPD

In the OSIP-EPD and OSIPM-EPD programs, an employment and independence expense (see OAR 461-001-0035) must be approved by the branch office prior to its use as a deduction from countable income (see OAR 461-140-0010).

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-160-0100

How Income Affects Eligibility and Benefits; REF, SFPSS, TANF

(1) Countable income (see OAR 461-001-0000) and adjusted income (see OAR 461-001-0000) are used to determine eligibility for the REF, SFPSS, and TANF programs using the countable and adjusted income standards in OAR 461-155-0030 as explained in this section:

(a) The financial group's countable income is compared to the countable income limit standard for the need group. If countable income equals or exceeds the standard, the benefit group is not eligible.

(b) If countable income is less than the countable income standard, the adjusted income is compared to the payment standard. If the adjusted income equals or exceeds the payment standard for the need group (see OAR 461-110-0630), the benefit group (see OAR 461-110-0750) is not eligible. If the adjusted income is less than the payment standard for the need group, the benefit group meets the income eligibility standard.

(2) Adjusted income is used to determine the monthly benefit in the REF, SFPSS, and TANF (except for a client who receives JOBS Plus income — see OAR 461-145-0130) programs as explained in this section:

(a) The monthly benefit is calculated by subtracting adjusted income from the applicable payment standard for the need group. The remainder is the benefit amount except for a need group that includes an ineligible non-citizen.

(b) If the need group contains an ineligible non-citizen, the benefit is the lesser of the remainder calculated in subsection (a) of this section and the payment standard for the benefit group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.009, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-160-0140

How Income and Resources are Used to Determine Eligibility and Benefit for EA

The Department considers a client's income and resources in determining eligibility and benefit level for EA as follows:

(1) The financial group's *countable income* is compared to the TANF adjusted income payment standard for the benefit group. If countable income equals or exceeds the standard, the benefit group is not eligible.

(2) If countable income is less than the standard and the financial group meets all other EA eligibility requirements, the client is required to use all income and resources that are immediately available to meet the emergent need. The EA benefit is calculated by subtracting all income and resources that are immediately available to the client from the amount needed to meet the emergent need. The remainder is the benefit, not to exceed the limit in OAR 461-155-0070.

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060, 411.117 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 7-1990, f. & cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 18-1990(Temp), f. & cert. ef. 7-13-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 17-2004, f. & cert. ef. 7-1-04

461-160-0160

Earned Income Deduction; REF, TANF

(1) In the REF program, the earned income deduction authorized in this division of rules is allowed for each person in the financial group who has earned income. The earned income deduction is 50 percent of the client's gross earned income including self-employment income.

(2) In the TANF program:

(a) For a self-employed client participating in the microenterprise component of the JOBS program, the earned income deduction for income earned in the microenterprise is 50 percent of the client's countable income calculated pursuant to OAR 461-145-0920 and 461-145-0930.

(b) For all other income, the earned income deduction is 50 percent of the client's gross earned income, including self-employment income.

Stat. Auth.: ORS 411.060, 412.049

Stats. Implemented: ORS 411.060, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 15-1991(Temp), f. & cert. ef. 8-16-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-160-0190

Determining Eligibility and Calculating Payment; Direct Provider Payments for TANF Child Care

(1) Clients in the TANF program are eligible for direct provider payments for child care (see OAR 461-165-0160) if:

(a) The child care cost is deductible under OAR 461-160-0040;

(b) The caretaker relative is employed and is in the financial group. For the purpose of this rule, work study and a job with earnings that are excluded for the TANF program are not considered employment; and

(c) The child meets the age requirements of OAR 461-120-0510.

(2) Payments are limited as follows:

(a) The cost must be allowed by OAR 461-160-0040;

(b) Payment is limited to the rates provided in OAR 461-155-0150;

(c) The direct child care payment is calculated in accordance with OAR 461-160-0300; and

(d) Payment is made only for child care already provided.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.083

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 22-1992(Temp), f. & cert. ef. 8-10-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2013, f. & cert. ef. 4-1-13

461-160-0300

Use of Income to Determine Eligibility and Benefits for ERDC

The Department determines financial eligibility for ERDC and the benefit level as follows:

(1) The monthly income of the financial group (see OAR 461-110-0530) is determined in accordance with OAR 461-150-0060.

(2) The monthly income at initial certification and recertification is compared to the ERDC eligibility standards in OAR 461-155-0150(5). If monthly income equals or exceeds the eligibility standards, the need group is ineligible for ERDC. If monthly income does not exceed the eligibility standard, the client's eligibility is determined under section (3) of this rule.

(3) For a client found eligible under section (2) of this rule, the allowable child care cost and the client's copay are determined as follows:

(a) The child care costs for which the client has been billed are compared to the amount provided in the appropriate child care chart in OAR 461-155-0150. The allowable child care cost is the lesser of the two amounts.

(b) The need group's copay is determined in accordance with OAR 461-155-0150.

(4) The copay is subtracted from the allowable child care cost, and the remainder is the payment the Department makes to the provider. If the copay is equal to or greater than the allowable child care cost, the client is not eligible for ERDC. If the copay is less than the allowable child care cost, the client meets the income requirement for ERDC.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.122

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 17-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-160-0400

Use of Income to Determine Eligibility and Benefits; SNAP

In the SNAP program, the *countable income* (see OAR 461-140-0010) and *adjusted income* (see 461-001-0000) of the *financial group* (see 461-110-0530) are used to determine eligibility for SNAP benefits and the benefit level in three steps:

(1) **Step one:** The *countable income* of the *financial group* is compared to the need group's *countable income* limit in OAR 461-155-0190. If the income equals or exceeds the limit, the *need group* (see 461-110-0630) is ineligible for SNAP benefits. A *financial group* that is *categorically eligible* (see 461-135-0505) for SNAP benefits or that includes a client who is *elderly* (see 461-001-0015) or has a *disability* (see 461-001-0015) need not pass this step.

(2) **Step two:** If the *need group* is not ineligible under step one, the *adjusted income* of the *financial group* is compared to the need group's *adjusted income* limit (see OAR 461 155 0190). If the income equals or exceeds the limit, the *filing group* — except one that is *categorically eligible* for SNAP benefits — is ineligible for SNAP benefits. If the *adjusted income* is less than the limit, the *need group* meets the income standard for the SNAP program.

(3) **Step three:** The benefit level for an eligible *need group* is determined as follows — *adjusted income* is multiplied by 30 percent, and the product is rounded to the next higher dollar. The result is subtracted from the need group's payment standard (see OAR 461-155-0190). The remainder is the benefit amount.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-

07; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2010(Temp), f. & cert. ef. 11-1-10 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11

461-160-0410

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP

When a member of the filing group (see OAR 461-110-0370) is not in the need group (see OAR 461-110-0630), benefits in the SNAP program are calculated as follows:

(1) If the member is a qualified non-citizen (see OAR 461-120-0125(1)(a)-(g)) who does not meet the alien status requirements, the following procedure is used:

(a) Benefits are calculated as if the qualified non-citizen is eligible. Benefits are then calculated as if the qualified non-citizen is not a member of the filing group. Any income received by another member of the filing group from the qualified non-citizen is counted as income of the filing group. No expenses paid by the qualified non-citizen are deducted from gross income.

(b) The household's benefits are the lesser of the amounts calculated in subsection (a) of this section.

(2) The process described in sections (3) and (4) of this rule is used if the member is:

(a) A non-citizen but not a qualified non-citizen;

(b) Disqualified for failing to obtain or provide a Social Security Number; or

(c) Unwilling to disclose alien status.

(3) If the member is in a group described in section (2) of this rule:

(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the filing group.

(b) The pro rata share of each individual not in the benefit group (see OAR 461-110-0750) is excluded.

(c) The rest of the prorated income is countable income for the filing group.

(4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. When paid by the member, or billed to the member and unpaid, deductions for shelter, child support, medical costs, and dependent care are calculated as follows:

(a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.

(b) The prorated share of the members of the benefit group is deducted.

(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.

(5) The countable income of the following financial group (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:

(a) A client disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.

(b) A client:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(B) Violating a condition of probation or parole imposed under a federal or state law.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 6-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 41-2010, f. 12-30-10,

cert. ef. 1-1-11; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 20-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-160-0415

Medical Deduction; SNAP

(1) This rule explains how to calculate the deduction for medical costs in the SNAP program allowed under OAR 461-160-0055 when incurred by an *elderly* (see 461-001-0015) member of the *filing group* (see 461-110-0370) or by a *filing group* member with a *disability* (see 461-001-0015).

(2) For each *certification period* (see OAR 461-001-0000), the Department estimates the amount of the client's medical deduction and apportions the amount evenly among the months in the *certification period*. For medical costs payable during the month of certification, the client may choose to deduct each cost in the month of certification or to average the cost over the *certification period*.

(3) For medical costs that were not anticipated when the deduction was estimated but are incurred and reported to the Department during the *certification period*, the client may choose to deduct each cost:

- (a) In the month after the cost is reported; or
- (b) By averaging the cost over the period from the month after the cost was reported to the end of the *certification period*.
- (4) If the client is billed in the last month of a *certification period* for a medical cost that is due after the *certification period*, and the client does not pay the bill during the *certification period*, the cost may be used to compute the deduction in the next *certification period*.

(5) Medical costs paid with a credit card are treated the same as if the cost were paid in full. The ongoing credit card payments are not an allowable medical deduction.

(6) A medical cost is not deductible in any of the following situations:

- (a) The client reports a paid medical cost in the last month of the redetermination period, but reports this cost after their benefits for that month have already been issued.
- (b) The medical cost is past due, is an amount carried forward from a previous billing period, or has been paid by the client in a previous *certification period*.
- (c) The client and creditor have agreed on a monthly payment amount, but the client defaults on the agreement.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; Suspended by AFS 31-2000(Temp), f. & cert. ef. 12-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 8-2013, f. & cert. ef. 4-1-13

461-160-0420

Shelter Cost; SNAP

(1) This rule explains how to calculate the shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the filing group's cost of housing plus an allowance for utilities, if the individual incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.

(2) Cost of housing.

(a) The following comprise the cost of housing if they are incurred with respect to the filing group's current residence or the home described in section (5) of this rule:

(A) Regular, periodic charges for the shelter of the filing group (see OAR 461-110-0370), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.

(B) Property taxes, state and local assessments, and property insurance on the structure.

(C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.

(D) If the filing group is homeless and living in a vehicle — vehicle payments and collision and comprehensive insurance premiums for the vehicle.

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.

(c) The filing group has the following choices about housing costs:

(A) The group may choose to apply the cost in the month it is billed or becomes due.

(B) The group may choose to have periodic costs averaged.

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.

(3) Shared housing. If the filing group shares housing costs with an individual in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by an individual outside the filing group cannot be ascertained, the cost is apportioned among the individuals contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.

(4) Cost for utilities.

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.

(c) If a homeless filing group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:

(A) Allowance with heating or cooling. A full standard utility allowance of \$445 per month is used if the household group (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A filing group who receives an energy assistance payment for the dwelling provided through the Low Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A). This energy assistance payment must be greater than \$20 annually.

(B) Allowance without heating or cooling.

(i) A limited standard utility allowance of \$327 per month is used if the filing group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.

(ii) An individual standard utility allowance of \$55 per month is used if the filing group is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.

(iii) A telephone standard utility allowance of \$60 per month is used if the filing group is billed only for telephone service, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.

(5) Housing costs for a home not occupied by the filing group. Housing and utility costs with respect to a home not currently occupied may be considered in calculating the shelter cost if:

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;

(b) The filing group intends to return to the home;

(c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and

(d) The home is not leased during the household's absence.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 21-1998(Temp), f. 10-15-98 & cert. ef. 11-1-98 thru 12-31-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 13-2014(Temp), f. & cert. ef. 5-20-14 thru 11-16-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-160-0430 Income Deductions; SNAP

(I) Deductions from income are subtracted from countable (see OAR 461-001-0000) income (see 461-140-0010) in the following order to determine adjusted income (see 461-001-0000) for the SNAP program:

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.

(b) A standard deduction of:

(A) \$155 per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals.

(B) \$168 per month for a benefit group of four individuals.

(C) \$197 per month for a benefit group of five individuals.

(D) \$226 per month for a benefit group of six or more individuals.

(c) A dependent care deduction for dependent care costs billed to a member of the filing group (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the filing group to:

(A) Accept or continue employment;

(B) Seek employment, including a job search that meets the requirements of a case plan (see OAR 461-001-0020); or

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.

(d) The medical deduction for elderly (see OAR 461-001-0015) individuals and individuals who have a disability (see 461-001-0015) in the filing group. The deduction is calculated by determining the total of their deductible medical costs (see 461-160-0415) and subtracting \$35. The remainder is the medical deduction.

(e) A deduction for child support payments (including cash medical support) a member of the filing group makes under a legal obligation to a child (see OAR 461-001-0000) not a member of the filing group, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.

(f) A shelter deduction, calculated as follows:

(A) For SNAP filing group members required to pay room and board in a nonstandard living arrangement (see OAR 461-001-0000), the shelter deduction is:

(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the individual can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.

(B) For all other filing group members, the shelter deduction is calculated as follows:

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of

the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.

(ii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who has a disability or is elderly. The limit is \$490 per month.

(2) If a filing group member cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the individual provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2000(Temp) Suspended by AFS 28-2000(Temp), f. 10-31-0, cert. ef. 11-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 3-2001, f. 2-27-01, cert. ef. 3-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2010(Temp), f. & cert. ef. 11-4-10 thru 5-3-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 43-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-160-0500

Use of Income To Determine Eligibility and Benefits; GA, GAM

In the GA and GAM programs, the countable and adjusted income (see OAR 461-001-0000) of a financial group (see OAR 461-110-0530) are used to determine eligibility and benefit amount as follows:

(1) If the countable income of the financial group equals or exceeds the payment standard for the need group (see OAR 461-110-0630), the need group is ineligible for GA and GAM. If the countable income is less than the standard, the need group meets the income standard for GA and GAM.

(2) The benefit amount is determined by subtracting the adjusted income of the financial group from the sum of the payment standard for the need group and its ongoing special needs.

(3) The benefit cannot exceed the sum of the payment standard for the benefit group (see OAR 461-110-0750) plus the ongoing special needs.

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 411.060 & 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 17-1995, f. 7-31-94, cert. ef. 8-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-160-0540

Determining Financial Eligibility and Benefits; QMB and OSIPM (except OSIPM-EPD) Living in the Community

(1) This rule is used to determine financial eligibility for QMB program clients and OSIPM (except OSIPM-EPD) program clients 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 clients 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 461-155-0250. The sum of the service payment and the OSIPM program adjusted income standard must be greater than the client's adjusted income. If the sum of the service payment and the OSIPM program standard is less than the adjusted income, the client is not eligible. For all other OSIPM program clients, they are eligible if their adjusted income is less than the OSIPM program standard.

(3) In the QMB-BAS program, a client is eligible if his or her adjusted income is equal to or less than the QMB program adjusted income standard.

(4) In the QMB-SMB program, a client is eligible if his or her adjusted income is less than the adjusted income standard.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-160-0550

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

(1) For purposes of this rule:

(a) A "child" is an unmarried individual, living with a natural or adoptive parent, and is:

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

(b) "Ineligible" means an individual who is not eligible to receive either SSI or TANF benefits.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for all 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 child (see section (1) of this rule) in the household group (see OAR 461-110-0210).

(3) For an individual described in section (2) of this rule who is married to a spouse (see OAR 461-001-0000) who is ineligible (see section (1) of this rule), the Department calculates the adjusted income of the individual under subsections (4)(a) through (4)(e) of this rule first. If the individual's adjusted income is greater than the OSIPM program adjusted income standard for a need group of one under 461-155-0250, the individual is not eligible for OSIPM.

(4) To determine adjusted income for individuals described in section (2) of this rule, 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) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the individual has less than \$20 in unearned income.

(b) One standard earned income deduction of:

(A) \$65 for OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA clients who are not blind; or

(B) \$85 for OSIP-AB and OSIPM-AB clients who are blind.

(c) An income deduction for documented impairment-related work expenses or blind work expenses.

(d) One half of the remaining earned income.

(e) Deductions under a plan for self-support.

Stat. Auth.: ORS 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 15-2014, f. & cert. ef. 7-1-14

461-160-0551

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

(1) For purposes of this rule:

(a) A "child" is an unmarried individual, living with a natural or adoptive parent, and is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full-time secondary, postsecondary, or vocational-technical training designed to prepare the individual for employment.

(b) "Ineligible" means an individual who is not eligible to receive either SSI or TANF benefits.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for clients 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) Have at least one child (see section (1) of this rule) in the household group (see OAR 461-110-0210).

(3) For an individual described in section (2) of this rule who is married to a spouse (see OAR 461-001-0000) who is ineligible (see section (1) of this rule), the Department calculates the adjusted income of the individual under sections (4)(b) through (f) of this rule first. If the individual's adjusted income is 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 OSIPM.

(4) To determine adjusted income for clients described in section (2) of this rule, 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) 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.

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

(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) through (f) 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. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(c) One standard earned income deduction of:

(A) \$65 for clients in the OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA programs; or

(B) \$85 for clients in the OSIP-AB and OSIPM-AB programs.

(d) An income deduction for documented impairment-related work expenses or blind work expenses.

(e) One half of the remaining earned income.

(f) Deductions under a plan for self-support for clients in the OSIP-AB, OSIP-AD, OSIPM-AB, and OSIPM-AD programs.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 15-2014, f. & cert. ef. 7-1-14

461-160-0552

Income Deductions; Qualified Medicare Beneficiaries Programs

(1) This rule is used to determine adjusted income for the Qualified Medicare Beneficiaries programs: QMB-BAS and QMB-SMB (including SMF) programs.

(2) To determine adjusted income, deductions from the countable income of the *financial group* (see OAR 461-110-0530) are made in the following order:

(a) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(b) One standard earned income deduction of:

(A) \$65 for clients who are not blind; or

(B) \$85 for clients who are blind.

(c) An income deduction for documented impairment-related work expenses or blind work expenses for clients under age 65.

(d) One half of the remaining earned income.

(e) Deductions under a plan for self-support for clients less than the age of 65.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0570

Excluded Resource; Community Spouse Provision Before 10/1/89

For OSIP and OSIPM, if the institutionalized spouse began a continuous period of care before October 1, 1989:

(1) Count the resources owned by the institutionalized spouse.

(2) Count resources jointly owned by both spouses according to rules on availability of resources.

(3) Do not count the resources owned solely by the community spouse.

Stat. Auth.: ORS 411.060, 411.070, 411.404 & 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704 & 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-160-0580

Excluded Resource; Community Spouse Provision (OSIPM except OSIPM-EPD)

Excluded Resource; Community Spouse Provision (OSIPM except OSIPM-EPD)

In the OSIPM (except OSIPM-EPD) program:

(1) This rule applies to an institutionalized spouse (see OAR 461-001-0030) who has applied for benefits because the individual is in or will be in a continuous period of care (see 461-001-0030).

(2) Whether a legally married (see OAR 461-001-0000) couple lives together or not, the determination of whether the value of the couple's resources exceeds the eligibility limit for the institutionalized spouse for the OSIPM program is made as follows:

(a) The first step is the determination of what the couple's combined countable (see OAR 461-001-0000) resources were at the beginning of the most recent continuous period of care. (The beginning of the continuous period of care is the first month of that continuous period.)

(A) Division 461-140 and 461-145 rules applicable to OSIPM describe which of the couple's resources are countable resources, and are applicable to determine whether a community spouse's resources are countable, even if the rule only applies to OSIPM clients.

(B) The countable resources of both spouses are combined.

(C) At this point in the computation, the couple's combined countable resources are considered available equally to both spouses.

(b) The second step is the calculation of one half of what the couple's combined countable resources were at the beginning of the continuous period of care. The community spouse's half of the couple's combined resources is treated as a constant amount when determining eligibility.

(c) The third step is the determination of the community spouse's resource allowance. The community spouse's resource allowance is the largest of the four following amounts:

(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care, but not more than \$119,220.

(B) \$23,844 (the state community-spouse resource allowance).

(C) A court-ordered community spouse resource allowance. In this paragraph and paragraph (2)(f)(C) of this rule, the term "court-ordered community spouse resource allowance" means a "court-ordered community spouse resource allowance" that, in relation to the income generated, would raise the community spouse's income to a court-approved monthly maintenance needs allowance. In cases where the client became an institutionalized spouse on or after February 8, 2006, this resource allowance must use all of the client's available income and the community spouse's income to meet the community spouse's monthly maintenance needs allowance before any resources are used to generate interest income to meet the allowance.

(D) After considering the income of the community spouse (see OAR 461-001-0030) and the income available from the institutionalized spouse, an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. The amount described in this paragraph is the amount required to purchase a single premium immediate annuity to make up the shortfall; and the amount described in this paragraph is considered only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:

(i) The monthly income allowance computed in accordance with OAR 461-160-0620.

(ii) The difference between:

(I) The sum of gross countable income of the community spouse and the institutionalized spouse; and

(II) The applicable need standard under OAR 461-160-0620(3)(c).

(d) The fourth step is the determination of what the couple's current combined countable resources are when a resource assessment is requested or the institutionalized spouse applies for OSIPM. The procedure in subsection (2)(a) (first step) of this rule is used.

(e) The fifth step is the subtraction of the community spouse's resource allowance from the couple's current combined countable

resources. The resources remaining are considered available to the institutionalized spouse.

(f) The sixth step is a comparison of the value of the remaining resources to the OSIPM resource standard for one person (under OAR 461-160-0015(3)(a)). If the value of the remaining resources is at or below the standard, the institutionalized spouse meets this eligibility requirement. If the value of the remaining resources is above the standard, the institutionalized spouse cannot be eligible until the value of the couple's combined countable resources is reduced to the largest of the four following amounts:

(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care (but not more than \$119,220) plus the OSIPM resource standard for one person.

(B) \$23,844 (the state community-spouse resource allowance), plus the OSIPM resource standard for one person.

(C) A "court-ordered community spouse resource allowance" plus the OSIPM resource standard for one person. (See paragraph (2)(c)(C) of this rule for a description of the "court-ordered community spouse resource allowance".)

(D) The OSIPM resource standard for one person plus the amount described in the remainder of this paragraph. After considering the income of the community spouse and the income available from the institutionalized spouse, add an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. This amount is the amount required to purchase a single premium immediate annuity to make up the shortfall. Add this amount only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:

(i) The monthly income allowance computed in accordance with OAR 461-160-0620.

(ii) The difference between:

(I) The sum of gross countable income of the community spouse and the institutionalized spouse; and

(II) The applicable need standard under OAR 461-160-0620(3)(c).

(3) Once eligibility has been established, resources equal to the community spouse's resource allowance (under subsection (2)(c) of this rule) must be transferred to the community spouse if those resources are not already in that spouse's name. The institutionalized spouse must indicate his or her intent to transfer the resources and must complete the transfer to the community spouse within 90 days. This period may be extended for good cause. These resources are excluded during this period. After this period, resources owned by the institutionalized spouse but not transferred out of that spouse's name will be countable and used to determine ongoing eligibility.

(4) The provisions of paragraph (2)(c)(C) of this rule requiring income to be considered first may be waived if the Department determines that the resulting community resource allowance would create an undue hardship on the spouse (see OAR 461-001-0000) of the client.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404 & 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.404 & 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 5-2006(Temp), f. & cert. ef. 3-6-06 thru 8-31-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09;

SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 4-2015, f. & cert. ef. 1-1-15

461-160-0590

Assessment of Resources; Community Spouse Provision

For OSIP and OSIPM, this rule applies to an institutionalized spouse who began a continuous period of care on or after October 1, 1989:

(1) Assess a couple's combined countable resources at the beginning of each continuous period of care when requested by either spouse or by a representative acting on behalf of either spouse.

(2) Advise requesting parties of the verification needed to make the assessment. Verification of ownership interest and current value of resources must be provided. When verification is not provided within specified time frames, advise requesting parties that an assessment cannot be completed.

(3) Requesting parties have a right to appeal the determination of countable resources at the time of the assessment.

(4) If either spouse disagrees with the amount or the method of computation of the community spouse's allowances, they are entitled to a hearing within 30 days of the date of the request for the hearing.

Stat. Auth.: ORS 411.060, 411.070, 411.404 & 411.706

Stats. Implemented: ORS 183.415, 411.060, 411.070, 411.083, 411.404, 411.704 & 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-160-0600

Availability of Income; Couple with an Institutionalized Spouse

This rule applies to an OSIP or OSIPM institutionalized spouse who began a continuous period of care on or after October 1, 1989.

(1) Do not deem any of the community spouse's income available to the institutionalized spouse at any time during the institutionalized spouse's continuous period of care.

(2) Determine the ownership of income from property that belongs to the institutionalized or community spouse as follows, unless legal documents specifically provide otherwise:

(a) If the payment is made solely to the institutionalized spouse or the community spouse, the income is available only to that spouse.

(b) If the payment is made to both the institutionalized and the community spouse, one-half of the income is available to each.

(c) If the payment is made to one spouse and another person, or to both spouses and another person, the income available to each spouse is whatever their share of the income is. If the payment is made to both spouses and another person, and it is not clear what each spouse's share of the income is, each spouse's share will be one-half of the couple's portion of the payment.

(d) If the institutionalized spouse can prove that the ownership of income is other than provided above, allow that amount.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; SSP 16-2003, f. & cert. ef. 7-1-03

461-160-0610

Client Liability; OSIPM (except OSIPM-EPD)

(1) A client in the OSIPM (except OSIPM-EPD) program who receives long-term care (see OAR 461-001-0000) services must, in order to remain eligible, make the payment required by this rule, except as provided in sections (2) to (6) of this rule. The client must apply his or her adjusted income to the cost of the care or service. This amount is the client liability. If the client's adjusted income exceeds the cost of care or service, the client must pay the full cost of care but has no additional liability.

(2) A client who receives SSI, or is deemed to receive SSI under section 1619(b) of the Social Security Act (42 U.S.C. § 1382h(b)), is eligible for OSIPM program benefits without having to make a payment.

(3) The IC service payment of a client in the OSIPM-IC program is reduced by the amount of his or her liability.

(4) The following clients, if they receive the services described in section (5) of this rule, are exempt from payments required by this rule:

- (a) A disabled adult child under OAR 461-135-0830.
- (b) A widow or widower under OAR 461-135-0820.
- (c) A Pickle amendment client under OAR 461-135-0780.
- (5) A client identified in section (4) of this rule is exempt from payments required by this rule if the client receives:

(a) Home and community-based care (see OAR 461-001-0030); or

(b) Mental health services and lives in a mental health residential treatment facility. For purposes of this rule, only the following types of treatment centers qualify as a mental health residential treatment facility:

- (A) A mental health adult foster home.
- (B) A mental health residential treatment home.
- (C) A mental health residential treatment facility.
- (D) A mental health secure residential treatment facility.

(6) In the initial month of placement, a client may be exempt from payments required under this rule if the Department determines that the client's income has been exhausted prior to placement. If any income remains, the client must contribute to the cost of care or service.

(7) A client residing in an acute care hospital is exempt from payments required by this rule while residing in the acute care hospital. If a service benefit was received prior to admission to the acute care hospital, payment must be made for that service.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-160-0620

Income Deductions and Client Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM

In the OSIPM program:

(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.

(3) Deductions are made in the following order:

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is \$85 in the OSIPM-AB program.

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.

(c) One of the following need standards:

(A) A \$60 personal needs allowance for an individual receiving long-term care services.

(B) A \$90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.

(C) For an individual who receives home and community-based care:

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus \$500.

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutional-

ized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.

(A) Step 1 — Determine the maintenance needs allowance. \$1,992 is added to the amount over \$598 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$2,980.50 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.

(B) Step 2 — Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(C) Step 3 — If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(e) A dependent income allowance as follows:

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below \$1,992. To determine the income allowance of each eligible dependent:

(i) The monthly income of the eligible dependent is deducted from \$1,992.

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no community spouse:

(i) The allowance is the TANF adjusted income standard for the individual and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the public and private health insurance premiums of the community spouse and the individual's dependent.

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(i) The individual's liability is determined as follows:

(A) For an individual receiving home and community-based care (except an individual identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for home and community-based care. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(B) For an individual who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for the Mentally Retarded, or a mental health facility, there is a liability as described at OAR 461-160-0610.

(4) The deduction used to determine adjusted income for a GA and GAM client receiving long-term care services or home and community-based care is as follows:

(a) One standard earned income deduction of \$65 is made from the earned income for an individual who is not blind; or

(b) One standard earned income deduction of \$85 is made from the earned income for an individual who is blind.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 23-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 16-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 25-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 3-2014, f. 1-31-14, cert. ef. 2-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 17-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 21-2015, f. & cert. ef. 7-1-15

461-160-0630

Deduction for Maintaining a Home; Long-Term Care Client

In the OSIP and OSIPM programs, a single client in long term care is eligible for a home maintenance deduction for up to six months if:

- (1) A physician has documented that the client is likely to return home within six months;
- (2) The amount of the deduction is reasonable in relation to the applicable OSIP shelter standard; and
- (3) 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.

Stat. Auth.: ORS 411.060, 411.404

Stats. Implemented: ORS 411.060, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-160-0780

Determining Adjusted Income; OSIP-EPD and OSIPM-EPD

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

- (1) All unearned income is excluded.
- (2) From gross earned income, one standard income deduction of \$20 is deducted.
- (3) One standard earned income deduction of \$65, or \$85 for individuals whose disability is based on blindness, is deducted.
- (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.

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404

Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-160-0800

Determining Participant Fee; OSIP-EPD, OSIPM-EPD (Including In-Home Services)

- (1) Individuals who receive OSIP-EPD and OSIPM-EPD program benefits will have a participant fee (see section (2) of this

rule) but do not have a client liability as discussed in OAR 461-160-0620.

(2) In the OSIP-EPD and OSIPM-EPD programs, the participant fee is calculated using the Federal Poverty Level (FPL) (see OAR 461-155-0290) and the individual's total countable (see OAR 461-001-0000) income as follows:

(a) For clients with countable income less than 75 percent of the FPL, the participant fee is \$0.

(b) For clients with countable income equal to or greater than 75 percent but less than 100 percent of the FPL, the participant fee is \$50 per month.

(c) For clients with countable income equal to or greater than 100 percent but less than 250 percent of the FPL, the participant fee is \$100 per month.

(d) For clients with countable income equal to or greater than 250 percent of the FPL, the participant fee is \$150 per month.

(3) The participant fee under section (2) of this rule must be paid each month as a condition of eligibility for as long as the individual is an OSIP-EPD or OSIPM-EPD client.

(4) OSIP-EPD and OSIPM-EPD clients in a licensed community-based care facility must pay room and board costs in addition to their participant fees.

(5) The local office may waive unpaid participant fees if the individual provides verification (OAR 461-115-0610) of significant economic difficulty, such as, but not limited to, homelessness, divorce, domestic violence (see OAR 461-001-0000), or illness.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 17-2011, f. & cert. ef. 7-1-11

461-160-0855

Excluded Resources for Payments Received Under a Qualified Partnership Policy; OSIPM

In the OSIPM program:

(1) When a client in a non-standard living arrangement (see OAR 461-001-0000) applies for medical benefits, the Department excludes as a resource an amount equal to the insurance payments received under a Qualified Partnership Policy (see OAR 461-001-0000) as of the initial month (see OAR 461-001-0000) of eligibility, unless the Qualified Partnership Policy was purchased in a state that has elected not to participate in reciprocity.

(2) The exclusion in section (1) of this rule:

(a) Does not apply when home equity exceeds the limit in OAR 461-145-0220(2)(a); and

(b) Applies to all other resources (not covered by subsection (a) of this section), notwithstanding other rules in this chapter of rules that designate the resources as countable.

(3) For the amount of resources excluded under this rule, the Department will not establish a claim against the deceased person's estate in accordance with OAR 461-135-0835.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.708, 414.025

Stats Implemented: ORS 411.060, 411.070, 411.083, 411.404, 411.704, 411.706, 411.708, 414.025

Hist.: SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 32-2010, f. & cert. ef. 10-1-10;

DIVISION 165

ISSUING CLIENT BENEFITS AND PAYMENTS TO CHILD CARE PROVIDERS

461-165-0010

Legal Status of Benefit Payments

(1) Under Oregon law, cash benefits are not subject to assignment, transfer, garnishment, levy, or execution, as long as they can be identified as program payments and are separate from other money in the client's possession.

(2) A cash payment, once issued to or on behalf of the client, becomes vested in the client.

(3) Except for electronic benefit transfer (EBT), the Department considers a benefit issued if the check has been handed to the client in the branch office, or mailed to the client. The Department considers a benefit issued, and received by the client, when a direct check deposit is made to the client's bank account.

(4) For EBT, the Department considers benefits issued and received when an EBT card and personal identification number (PIN) have been issued in person to the client, or the EBT card and PIN have been received by the client in the mail during conversion, and the benefits have been deposited to the client's EBT account.

(5) SNAP program benefits issued by EBT remain available for client access for 12 calendar months from the date of issuance. The EBT system expunges unused benefits after 12 calendar months.

(6) Benefits, once issued, are unrestricted and do not require accountability for individual expenditures or amounts, unless limited elsewhere in rule.

(7) In the TA-DVS program, a payment issued on behalf of a client as a vendor or dual payee payment or directly to the client becomes vested in the client when issued. The Department considers the benefit to be issued if the Department has mailed the payment to the vendor or has hand delivered or mailed a dual payee check to the client. Benefits in the TA-DVS program are restricted to uses outlined in OAR 461-135-1230.

(8) In the REF program:

(a) Cash benefits are provided to help meet the basic needs of low-income refugees and may not be used in any electronic benefit transfer transaction (see section (10) of this rule) in:

(A) Any liquor store (see section (10) of this rule);

(B) Any casino, gambling casino, or gaming establishment; or

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) The Department will take steps to ensure clients have adequate access to their cash benefits.

(9) In the SFPSS and TANF programs:

(a) Cash benefits are provided to help meet the basic needs of low-income families with dependent children (see OAR 461-001-0000) and may not be used in any electronic benefit transfer transaction in:

(A) Any liquor store;

(B) Any casino, gambling casino, or gaming establishment; or

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) The Department will take steps to ensure clients have adequate access to their cash benefits.

(10) For purposes of sections (8) and (9) of this rule:

(a) The term "liquor store" means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (as defined in the Food and Nutrition Act of 2008 (7 U.S.C. 2012)).

(b) The terms "casino", "gambling casino", and "gaming establishment" do not include:

(A) A grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or

(B) Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

(c) The term "electronic benefit transfer transaction" means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.014, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.816, 411.837, 412.006, 412.014, 412.049, 412.151

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-1991, f. 4-30-91, cert. ef. 5-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1997, f. 8-28-97, cert. ef.

9-1-97; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2013, f. & cert. ef. 2-6-13; SSP 19-2015, f. & cert. ef. 7-1-15

461-165-0030

Concurrent and Duplicate Program Benefits

(1) Except as noted in this rule, an individual may not receive benefits from the Department of the same type (that is, cash, medical, or SNAP benefits) for the same period as a member of two or more different benefit groups (see OAR 461-110-0750) or from two or more separate programs. Except as allowed in subsection (g) of this section, this provision includes a prohibition against an individual receiving TANF concurrently with another cash assistance program funded under Title IV-E of the Social Security Act.

(a) An individual may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.

(b) If a GA recipient becomes eligible for the TANF program, benefits are supplemented during the first month of eligibility (see OAR 461-001-0000) for TANF to the TANF payment standards.

(c) An REF or TANF recipient may receive ERDC for a child (see OAR 461-001-0000) in the household group (see 461-110-0210), but who may not be included in the REF or TANF filing group (see 461-110-0310).

(d) A child who is a member of an ERDC benefit group may also be a member of one of the following benefit groups:

(A) An OSIP-AB benefit group.

(B) A TANF benefit group when living with a nonneedy caretaker relative (see OAR 461-001-0000), if the caretaker relative is not the parent (see OAR 461-001-0000) of the child.

(C) A TANF benefit group when living with a needy caretaker relative receiving SSI.

(e) An individual in the SNAP program who leaves a filing group (see OAR 461-110-0370) that includes an individual who abused them and enters a domestic violence shelter (see 461-001-0000) or safe home (see 461-001-0000) for victims of domestic violence (see 461-001-0000) may receive SNAP benefits twice during the month the individual enters the domestic violence shelter or safe home.

(f) A QMB recipient may also receive medical benefits from OSIPM, REFM, or an OCCS medical program with the exception of OHP-OPC, OHP-OPU, OHP-OP6, OHP-CHIP, MAGI Adult, and MAGI CHIP.

(g) An individual may receive Chafee (see OAR 413-030-0400 to 413-030-0455) and TANF benefits during the same time period. As of January 1, 2013, receipt of both Chafee and TANF benefits will not result in an overpayment.

(2) An individual may not receive benefits of the same type (that is, cash, medical, or SNAP benefits) for the same period from both Oregon and another state or tribal food distribution program, except as follows:

(a) Medical benefits may be authorized for an eligible individual if the individual's provider refuses to submit a bill to the Medicaid agency of another state and the individual would not otherwise receive medical care.

(b) Cash benefits may be authorized for an individual in the Pre-TANF program if benefits from another state will end by the last day of the month in which the individual applied for TANF.

(3) In the SNAP program, each individual who has been included as a member of the filing group in Oregon or another state is subject to all of the restrictions in section (2) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 412.124, 414.826

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10;

Chapter 461 Department of Human Services, Self-Sufficiency Programs

SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 29-2014(Temp), f. & cert. ef. 11-3-14 thru 5-1-15; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15

461-165-0035

Alternate Payees; EBT

(1) An alternate payee may be used to obtain and use benefits for the benefit group (see OAR 461-110-0750) when benefits are issued by electronic benefit transfer (EBT).

(2) Except as provided in section (5) of this rule, an alternate payee may be used any time the primary person, the spouse of the primary person, or another responsible adult member of the filing group names one in writing on a form designated by the Department.

(3) The branch office may appoint an emergency alternate payee if the adult filing group members are temporarily unable to act as payee.

(4) When an alternate payee is named, the Department issues an EBT card and personal identification number (PIN) for that person.

(5) For child care benefits in the ERDC, JOBS, JOBS Plus, and TANF programs, an alternate payee may not be a Department-approved child care provider or acting on behalf of a Department-approved child care provider.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.049

Hist.: AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 6-2012(Temp), f. & cert. ef. 2-27-12 thru 8-25-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12

461-165-0040

Assigning Payee; Not EBT

When benefits are not issued by EBT, a person may be payee for a case regardless of whether they receive benefits on that case. They may be the payee for more than one program or case. The payee is:

- (1) The primary person; or
- (2) An authorized representative.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0045

Emergency Payee; TANF

(1) An emergency payee for ongoing TANF may be used when:

(a) The dependent children are abandoned by the caretaker relative for reasons such as the caretaker relative's death or whereabouts unknown; and

(b) There are no other relatives immediately available to be the children's caretaker.

(2) An emergency payee may be used for up to two payment months.

(3) An emergency payee does not have to be related to the dependent child.

(4) An emergency payee may not be used for initial payments.

(5) The emergency payee may be included in the benefit group if all the following are true:

(a) They meet all eligibility requirements except relationship and cooperation with JOBS;

(b) Their income and resources are counted;

(c) There is no other caretaker relative in the benefit group.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.085, 412.006, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.085, 412.006, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92

461-165-0050

Dual Payee; When to Use

(1) For GA, OSIP, REF and TANF, use a dual-payee check for protective payments if the benefit group has shown they are not able to properly manage benefits meant to meet their needs. Issue

the dual-payee check in both the name of the client and the name of the service provider.

(2) Issue EA checks for shelter, moving costs, property taxes, and home repairs as dual-payee revolving fund checks. The supervisor or branch manager must authorize an exception to this policy in advance.

(3) To make sure a JOBS or OFSET payment is used to meet a specific need, the branch office may write a dual-payee revolving fund check in the name of both the client and the vendor.

Stat. Auth.: ORS 411.060, 411.070, 411.706, 411.816, 412.006, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.706, 411.816, 412.006, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-165-0060

Minimum Benefit Amount; REF, SNAP, TANF

(1) In the SNAP program:

(a) A *benefit group* (see OAR 461-110-0750) is not eligible for benefits in the initial month (see OAR 461-001-0000) if the allotment is less than \$10.

(b) Except as provided otherwise in section (1) of this rule and in OAR 461-160-0070, minimum benefits are determined as follows:

(A) An eligible benefit group of one or two persons receives the monthly calculated benefit with a minimum monthly allotment of eight percent of the Thrifty Food Plan (TFP) for one person as determined annually by FNS.

(B) An eligible benefit group of three or more persons receives the monthly calculated benefit, except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively. A benefit group in a categorically eligible filing group may be eligible for zero benefits (\$0) for the certification period (see OAR 461-001-0000).

(2) In the REF and TANF programs, except as provided in section (3) of this rule, benefits are not issued if the monthly benefit is less than \$10. Individuals who do not receive a cash payment because the monthly benefit is less than \$10 may be eligible for medical benefits.

(3) The \$10 requirement in section (2) of this rule does not apply to any of the following:

(a) Special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.

(b) Dual payee payments made in money management cases if the monthly benefit amount is \$10 or more.

(c) Wage supplements issued to JOBS Plus participants.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 19-2004(Temp), f. 7-30-04, cert. ef. 8-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 24-2008(Temp), f. & cert. ef. 11-6-08 thru 5-5-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13

461-165-0070

Immediate Issuance of Benefits

Clients whose cases are new, reopened or restored are eligible for immediate issuance of benefits if the standard procedure for issuing benefits would not meet an emergent need of the client, as provided in this rule.

(1) A client with an emergent need is entitled to immediate cash benefits.

(2) A client eligible for expedited SNAP service (see OAR 461-135-0575) is entitled to receive the benefits within seven calendar days after filing an application.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 34-2000, f. 12-22-

00, cert. ef. 1-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-165-0080

Method for Delivery of Benefits

(1) Benefits are delivered several ways, depending on the program and client situation. Send all mailed benefits to the client's residential address. A rural route box number is acceptable as a residential address.

(2) Make either of the following exceptions on a case-by-case basis if directions to the home are included in the case record:

(a) A post office box number can be used if any of the following is true:

(A) There is no mail service to the client's home.

(B) The client lives in a nonstandard living arrangement.

(C) There have been verified cases of benefits being stolen from home mailboxes in the client's neighborhood.

(b) Use General Delivery only if it is the client's sole means of mail receipt.

(3) Give immediate-issue benefits to the client in the branch office or check-cashing facility if benefits cannot otherwise be issued within the program requirement for immediate need.

(4) For OSIP-IC and OSIPM-IC, benefits are issued only by direct deposit into a bank account designated by client.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01

461-165-0082

SNAP Cash-Out

SNAP households in Clackamas, Columbia, Multnomah, and Washington counties receive SNAP benefits in cash if all persons in the filing group are 65 years of age or older or are eligible to receive SSI benefits under Title XVI of the Social Security Act.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05

461-165-0096

Access Fee for EBT-Issued Benefits

Clients accessing their EBT cash account are charged 85¢, plus any applicable bank charges, for each cash-withdrawal transaction at an automated teller machine (ATM). The first two point-of-sale (POS) cash-withdrawals (without purchase) each month are free. For the third and all subsequent POS cash-back transactions, the client's EBT account is charged 85¢.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

Hist.: AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0100

Issuance Date of Benefit

(1) For all programs except the EA and SNAP programs:

(a) An authorized cash payment check is dated on the first day of the payment period or as soon as practicable thereafter.

(b) Checks are mailed so they can be delivered to the client on the first day of each month except in the following cases:

(A) Initial month benefits for cases that are new, reopened, or restored.

(B) If the first day of the month falls on Sunday or a holiday, the check is mailed in time for the client to receive it on Saturday or the mail day preceding the holiday.

(C) Checks redirected to the branch office may be released during the last workday preceding a weekend or holiday.

(c) Benefits issued by EBT will be available on the first day of each month, except for the following:

(A) Initial month benefits for cases that are new, reopened, or restored.

(B) Benefits held by the branch office.

(2) EA clients must receive their checks, either direct or vendor, in time to meet their emergent needs.

(3) SNAP benefits are available as follows:

(a) SNAP benefits issued by EBT are available in the EBT account on the day of the month corresponding to the last digit of the client's case number except for the following:

(A) The benefits for the initial month of eligibility for a new or re-opened case.

(B) The benefits for the seventh month of the certification period for a case in the semi-annual reporting system.

(b) SNAP benefits issued through the SNAP cash-out are available as follows:

(A) Benefits accessed through an EBT account are available on the first day of the month.

(B) Checks are mailed on the first day of the month.

(C) Direct-deposit funds are available on the third working day of the month.

(4) For SNAP changes that could not be made in time to adjust the monthly allotment, a supplement is issued within 10 days of the date the change was reported.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-165-0105

Exception to Staggered Issuance; SNAP

The second month's allotment of SNAP benefits is not subject to staggered issuance if the filing group applies after the 15th of the month and the application is not for a redetermination of eligibility. Once eligibility for SNAP benefits is established for these groups, benefits are issued as follows:

(1) If the case is opened on SNAPMIS by the last day of the initial month of eligibility, the computer will prorate benefits for the initial month and will automatically issue benefits for the second month on the first of that month; or

(2) If the case is opened after the initial month of eligibility, the computer will prorate benefits for the initial month and will automatically issue benefits for the second month on the same day.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 4-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0110

Alternatives to Direct Money Payment

In the GA, OSIP, REF and TANF programs, the Department may use protective payments to ensure that the benefits are used to meet the client's basic needs. A protective payment is the payment by check of some or all of a client's grant to an authorized representative or creditor of the client. In the REF and TANF programs, protective payments may be made whenever a client demonstrates such an inability to manage funds that the Department determines the benefits are not being used in the client's best interest. Protective payments are appropriate particularly if mismanagement of funds caused by repeated interruptions of the client's grant poses a threat to the health or safety of children in the household.

Stat. Auth.: ORS 411.060, 411.070, 411.706, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.706, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01

461-165-0120

Benefits for a Client in an Acute Care Hospital

(1) In the REF, REFM, and TANF programs, regular monthly benefits continue when a client enters an acute care hospital. The monthly benefits remain unchanged until the client returns home or enters some other living arrangement. An authorized representative designated by the client or the branch may be used if necessary.

(2) In the ERDC, GA, GAM, OSIP, OSIPM, and QMB programs, regular monthly benefits continue if a client will be in the acute care hospital for less than 30 days. If the client will be in the acute care hospital for 30 days or more or until death, the client's needs are determined as if the client were in a nursing facility.

(3) In the SNAP program, regular monthly benefits continue if the client will be in his or her own home 50 percent of the time or more. If the client will be in an institution for more than 50 percent of a calendar month, the client is not eligible for SNAP benefits.

Stat. Auth.: ORS 411.060, 411.816, 412.049
 Stats. Implemented: ORS 411.060, 411.816, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-165-0130

Payment of Benefit Out-of-State

(1) For all programs except the SNAP and GA programs, the Department sends benefits out of state if a client is absent from Oregon and the client establishes the intent to return within 60 days.

(2) If a client is detained out of state beyond 60 days for medical reasons, continued eligibility is determined and the client is required to provide documentation of the need to remain in the other state.

(3) For medical benefits, out-of-state medical expenditures must have prior authorization.

(4) In the SNAP and GA programs, the Department does not send benefits out of state.

Stat. Auth.: ORS 411.060
 Stats. Implemented: ORS 418.047
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 13-2009, f. & cert. ef. 7-1-09

461-165-0140

Endorsement and Survivorship of Benefits

(1) The client or the client's payee must endorse checks issued in payment of a benefit. The endorsement on the check must be the same as the name appearing as payee.

(2) The client may endorse a check with a mark or thumbprint if duly witnessed by two people giving their full names and addresses.

(3) Benefits issued by EBT (electronic benefit transfer) may be used only with the Oregon Trail debit card and the client's matching personal identification number (PIN).

(4) The person with power of attorney may:

(a) Act as authorized representative or alternate payee.

(b) Endorse and cash the benefit check as in the following example: John Doe (Recipient) by Richard Jones (Power of Attorney)

(5) In all programs except the SNAP program, any cash benefit issued to clients before their death is available to their survivors.

(a) Checks may be endorsed in the name of the deceased beneficiary by the surviving spouse or next of kin, or by the administrator of their estate. The Department uses the following procedure:

(A) Before the next of kin endorses a check, the check must be presented to the branch office.

(B) The Department will rubber-stamp the endorsement on the check only if it has been determined that the client died on or after the first day of the period for which the payment was provided.

(C) The endorsement must show both the name of the deceased beneficiary and the name of the surviving spouse or next of kin, as well as the relationship of the endorser to the beneficiary.

(D) The person who endorses the check receives the proceeds of the benefit.

(b) For cash benefits in an EBT account (except for SNAP cash-out benefits), the Department will designate an adult survivor as the alternate payee. The Department will issue the payee an EBT card and PIN to access the balance in the EBT account.

(6) In the SNAP program, there is no survivor's right to benefits unless the survivor is independently entitled to benefits as a member of the benefit group. When the survivor is not in the benefit group:

(a) The Department will request the return of unnegotiated cash-out checks to the branch.

(b) For SNAP benefits that were issued by EBT, if no one remains in the benefit group, the Department will cancel the remaining benefits from the EBT account.

Stat. Auth.: ORS 411.060, 411.816, 412.049
 Stats. Implemented: ORS 411.060, 411.610, 411.816, 412.049, 412.151
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 13-2009, f. & cert. ef. 7-1-09

461-165-0160

Direct Provider Payments; General Information

(1) The Department makes payments on behalf of eligible clients to the providers they select to care for their children. The payments are made directly to the provider. To be eligible for payment, a provider must:

(a) Charge Department clients at a rate no higher than the rate charged other customers;

(b) Provide the Department his or her social security number (SSN) or IRS identification number; and

(c) Meet the requirements of OAR 461-165-0180.

(2) Payments to a client's provider are subject to each of the following limitations:

(a) A payment is made only for child care already provided.

(b) Payment is made for the amount charged to the client but may not exceed the rate authorized in OAR 461-155-0150.

(c) No payment will be authorized unless the client has designated a primary provider.

(d) No payment will be made for less than one dollar.

(e) A payment is made only for child care provided on or after the date the designated provider has met the requirements to be listed and paid through the Department.

(3) In the ERDC and TANF programs, the Department may issue a payment to an eligible provider during a month for which child care is being provided to meet an unexpected need of the provider related to the care of a covered child. The payment may be made if, without the payment, continued care by the same provider would be jeopardized and the client could not immediately obtain child care from another provider.

Stat. Auth.: ORS 411.060, 411.070, 411.122 & 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.122 & 412.049
 Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 22-2000(Temp) f. 9-27-00, cert. ef. 9-27-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2013, f. & cert. ef. 4-1-13

461-165-0171

Direct Provider Payments; Payment Forms

In the ERDC, JOBS, OFSET, and TANF programs:

(1) Child care providers must submit claims for child care on the appropriate form or through the Child Care Billing and Attendance Tracking system.

(a) The provider is responsible to obtain the appropriate payment form from the Department and to return the completed form to the Direct Pay Unit of the Department; or

(b) If using the Department tracking system, the provider is responsible to ensure children are checked in and out appropriately and payment requests are submitted through the system.

(2) No payment will be made for:

(a) A paper claim not received by the Department by the last day of the third month after the form was issued unless the Depart-

ment determines the provider had good cause for not returning the form timely.

(b) An electronic claim if the request is not submitted by the 10th of the month following the month care is provided unless the Department determines the provider has good cause for not submitting the electronic claim timely.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2011, f. & cert. ef. 7-1-11

461-165-0180**Eligibility of Child Care Providers**

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a preliminary or final fitness determination (see OAR 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see 407-007-0210(30)(a)(A), (B), (F), (I), and (P)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of “denied”. A provider may be denied under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in 407-007-0210, the Department finds substantial risk to the health or safety of a child (see 461-001-0000) in the care of the provider, the provider must be denied and is ineligible for payment. A provider who has been denied has the right to a hearing under 407-007-0330.

(b) A finding of “failed”. A provider may be failed if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet the eligibility requirements of this rule. A provider with a status of “failed” may reapply at any time by providing the required documents and information to the Department for review.

(c) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 407-007-0210(30)(a)(A), (B), (F), (I) or (P) must fully disclose all requested information as part of the records check.

(4) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider’s home:

(A) Each individual 16 years of age or older who lives in the provider’s home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) To receive payment or authorization for payment, the provider must meet the requirements of either subsection (a) or (b) of this section:

(a) Currently be certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 unless legally exempt,

and be in compliance with the applicable rules. The provider must also complete the Department’s listing process and be approved by the Department.

(b) If legally exempt from being certified or registered with the OCC, complete the Department’s background check process and be approved by the Department.

(6) Each individual described in section (4) of this rule must:

(a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.

(b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.

(c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(7) Each provider must:

(a) Obtain written approval from their certifier or certifier’s supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.

(c) Not be in the same filing group (see OAR 461-110-0350) as the child cared for and cannot be the parent (see OAR 461-001-0000) of a child in the filing group.

(d) Allow the Department to inspect the site of care while child care is provided.

(e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. The provider must keep written records of any attendance that is not able to be recorded in the Child Care Billing and Attendance Tracking (CCBAT) system. These written records must be retained for a minimum of 12 months and provided to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department’s Direct Pay Unit.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department’s Direct Pay Unit within five days of occurrence:

(A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.

(B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.

(C) Any change to the provider’s name or address including any location where care is provided.

(D) The addition of any subject individual or individual described in section (4) of this rule.

(E) Any reason the provider no longer meets the requirements under this rule.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (11) of this rule).

(L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child.

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.

(o) Ensure that the home or facility where care is provided meets all of the following standards:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The home or facility has safe drinking water.

(C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Gates and enclosures have the Juvenile Products Manufacturers Association (JPMA) certification seal to ensure safety.

(E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.

(G) The home or facility has a telephone in operating condition.

(H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure:

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(r) Complete registration for the CCBAT system within 45 days of the date of the registration notice.

(s) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(t) Place infants to sleep on their backs.

(u) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).

(8) Child Care providers who are License Exempt or Registered Family Child Care Providers with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170 must complete the "Basic Child Care Health and Safety" two- hour, web-based training or the three-hour Oregon Kids Healthy and Safe (OKHS) classroom training prior to being approved by the Department.

(a) Prior to June 16, 2014, a provider who sends the Department a Child Care Provider Listing and Provider Information Sheet (DHS 7494) with a revision date of March 2013, or those who attempt to take the web-based training but are unable due to technical difficulties at the training site, will not be failed for not meeting this training requirement.

(b) License Exempt or Registered Family Child Care Providers who are exempt from this training are those who state at least one of the following:

(A) English is a second language.

(B) No internet access is available.

(9) A child care provider not subject to certification or registration with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250, must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

(a) Receives funds from the Department; and

(b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(11) For purposes of these rules:

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

Stat. Auth.: ORS 181.537, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 5-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 10-2014(Temp), f. & cert. ef. 4-1-14 thru 8-28-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 21-2014(Temp), f. & cert. ef. 8-13-14 thru 2-9-15; SSP 6-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 17-2015, f. & cert. ef. 6-30-15

461-165-0200

Restoring Benefits

(1) A client is entitled to a supplemental payment of benefits for the current month or restoration of benefits lost in a previous month if the client received a lower benefit than he or she was entitled to for the reasons given in this rule. A client may receive a restoration of lost benefits even if no longer eligible.

(2) A client may receive a supplemental payment if there was a change in the client's circumstances that would cause an increase in benefits, if the report of change was made before the first day of the payment month but too late for the Department to adjust the next payment.

(3) A client may receive a supplemental or restorative benefit if the Department caused an administrative underpayment. An administrative underpayment includes, but is not limited to, an underpayment caused by the following:

(a) Failure to take action on information reported to the Department.

(b) Use of an incorrect effective date.

(c) Denial, closure or reduction of benefits in error and a failure to send the client a required notice of proposed action.

(d) Making a calculation error.

(4) A client is entitled to a restoration of lost benefits if:

(a) The restoration results from a final order in a contested case.

(b) The Department withheld too much of the client's grant in the collection of an overpayment.

(c) The restoration results from a court order.

(d) After receiving proper notification, the Department failed to cancel the EBT card of an individual leaving a SNAP program household and that individual continues to access the household's SNAP program benefits in subsequent months.

(5) Restored benefits are added to the benefits of a currently eligible client. In the SNAP program, the Department will honor a reasonable request by a client to restore benefits in monthly installments.

(6) A client who moves from Oregon remains eligible for a restoration of benefits.

(7) Restoration of benefits is limited to the extent provided in OAR 461-180-0130.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10

461-165-0210

Calculating Restored and Supplemental Benefits

(1) Supplemental and restorative benefits are calculated and paid as follows:

(a) The effective date of the lost benefits is determined.

(b) The *benefit group* (see OAR 461-110-0750) is not eligible for restored benefits in any month that eligibility for the benefits cannot be established. The *benefit group* has an opportunity to prove eligibility for any months in question.

(c) The correct benefits for the months in question are calculated.

(d) The amount the *benefit group* actually received is subtracted from the amount they should have received.

(e) The amount of restored benefits is offset against overdue or suspended overpayments.

(f) The group with the largest number of people who were in the *benefit group* at the time the loss occurred is entitled to the restorative payment. If the location of that group is unknown, the benefit is paid to the *benefit group* containing the primary person at the time the loss occurred.

(2) When, after receiving proper notification, the Department failed to cancel the EBT card of an individual leaving a SNAP program household and that individual continues to access the household's SNAP program benefits in subsequent months, the amount

of SNAP program benefits to be restored is the amount used by the former household member.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10

461-165-0220

Replacing Lost, Stolen, Destroyed or Undelivered Checks

(1) Replacement checks are issued in compliance with ORS 293.475 and this rule.

(2) A replacement check is issued if the original check remains outstanding and the payee claims any of the following:

(a) The original check was not received. Five postal service working days must pass from the date the original check was issued before a replacement is issued.

(b) The original check was received but lost, stolen or destroyed without being endorsed. A replacement check is issued without a waiting period.

(c) The original check was endorsed but not cashed before it was lost, stolen or destroyed. A replacement check is issued if:

(A) The check was destroyed and remnants of the check are provided to the Department; or

(B) The check was endorsed "for deposit only" before it was lost, stolen or destroyed.

(3) A dual-payee check is replaced only if:

(a) The client completes an affidavit affirming that the unendorsed check has been lost, destroyed or stolen; or

(b) The client has endorsed the check and the second party completes an affidavit concerning the lost check. The second party must agree to reimburse the state and not to hold the client responsible if the original check is negotiated. The replacement check is made payable to the second party only.

(4) A check may be issued to replace a check that has been processed by the State Treasurer for payment only after the client has provided the Department with the information and documents needed to conduct an investigation into the loss.

(5) A replacement check is not issued in either of the following situations:

(a) The client cashes a dual-payee check without the second party's signature.

(b) A check has been deposited directly to an account specified by the client.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-1991, f. 4-30-91, cert. ef. 5-1-91; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 10-2002, f. & cert. ef. 7-1-02

461-165-0230

Replacing SNAP Program Benefits and EBT Cards

(1) The Department does not replace SNAP program benefits after they are delivered to the EBT account unless the Department failed to cancel the EBT card of an individual leaving a SNAP program household and that individual continues to access SNAP program benefits in subsequent months.

(2) The Department will replace the value of food purchased with SNAP program benefits if the food is destroyed by a verified household misfortune and the benefit group reports the loss within ten days of occurrence. The amount of the replacement may not exceed one month's allotment. The Department will replace the loss within ten days after the household provides sufficient verification.

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

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef.

2-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10

461-165-0410

Provider Listing; Disqualifying Criminal History

(1) This rule explains the grounds upon which the Department denies a request by a child care provider to receive child care payments from a self-sufficiency program of the Department based on the records of a subject individual (see OAR 407-007-0210(21)(a)(G)). For the purposes of this rule, the provider and any individual identified under OAR 461-165-0180(4) is considered a subject individual under 407-007-0210(21)(a)(G).

(2) The Department may find a child care provider ineligible for payment when the criminal history of a subject individual indicates behavior that may jeopardize the safety of a child or have a detrimental effect on a child while in the care of the provider, in the following circumstances, the subject individual has:

(a) Been charged with or arrested for a drug-related, sexual, or violent crime listed in OAR 407-007-0280(1). There is a rebuttable presumption that such a subject individual is likely to engage in conduct that would pose a significant risk to a client, the Department, or a vulnerable individual.

(b) Been convicted of two or more crimes listed in OAR 407-007-0280 at any time.

(c) Been convicted of violation of probation and a crime listed in OAR 407-007-0280, at any time that relates to the person's qualification or duties as a child care provider.

(d) Been charged with two or more crimes listed in OAR 407-007-0280 within the past five years.

(e) Three or more arrests, at any time, for crimes listed in OAR 407-007-0280.

(3) The Department may pay for the services of a child care provider even if a subject individual has a potentially disqualifying criminal history, defined by OAR 407-007-0280, only if the Department has determined — based on a weighing test as described in OAR 407-007-0320 and consideration of the information listed in OAR 407-007-0280, 407-007-0290, 407-007-0300, and this rule — that repeated criminal behavior is unlikely and that the provider does not present a danger to a child in the provider's care.

Stat. Auth.: ORS 181.537, 411.060

Stats. Implemented: ORS 181.537, 411.060, 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 5-2009, f. & cert. ef. 4-1-09

461-165-0420

Provider Listing; Disqualifying Child Protective Service History

(1) This rule explains the grounds upon which the Department denies the request by a child care provider to receive child care payments from a self-sufficiency program of the Department based on the records of a subject individual (see OAR 407-007-0010). For the purposes of this rule, the provider and any individual identified under OAR 461-165-0180(4) is considered a subject individual under OAR 407-007-0210(27)(a)(G).

(2) The Department may find a child care provider ineligible for payment when the Child Protective Service (CPS) history of a subject individual, based on prior conduct, indicates that a subject individual is likely to engage in conduct that would jeopardize the safety of or have a detrimental effect on a child while in the care of the provider.

(3) To make its determination, the Department may use any available information including the CPS records of the Department, an investigation of a complaint, or information provided by another agency. A single incident may be sufficient history for denial of eligibility.

(4) If the Department obtains information of a potentially disqualifying nature with respect to a subject individual, as described in OAR 461-165-0180(4), the Department may request additional information to determine the provider's ability to provide care and must conduct a weighing test under OAR 407-007-0320. Any addi-

tional information obtained must be reviewed by the Criminal Records Unit (CRU) for determination of eligibility.

(5) Failure to respond to a request for information results in a finding of "failed" (see OAR 461-165-0180). The provider or subject individual must disclose fully all requested information as part of the records check.

(6) The Department may pay for the services of a child care provider even if a subject individual has a potentially disqualifying history of behavior if the Department determines, based on a fitness determination made under OAR 407-007-0320, that repeated behavior is unlikely and that the presence of the individual likely would not jeopardize the safety of a child in the provider's care based on:

(a) The content and source of the reports, the time elapsed since the reports, and the number of reports and referrals;

(b) The individual's participation in rehabilitation, training, or counseling;

(c) The likelihood of the individual's abuse of drugs or alcohol; and

(d) Any other relevant eligibility requirements or supplemental information under OAR 407-007-0300 or 461-165-0180.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 5-2009, f. & cert. ef. 4-1-09

461-165-0430

Child Care Provider Hearings

(1) A provider has a right to a contested case hearing only to contest a fitness determination that results in a denial of eligibility for payment or to dispute an allegation of an overpayment of child care. Hearings to contest a fitness determination that results in a denial are governed by OAR 407-007-0330. Hearings to contest an overpayment are governed by division 461-025 of the Oregon Administrative Rules.

(2) In the case of an alleged overpayment, the provider may delay repayment on an overpayment until a final order is served by completing a request for hearing not later than the fifteenth day following the date of the overpayment notice.

(3) A provider whose application for listing is denied and who fails to request a hearing within the 45-day hearing request period is not eligible to reapply for listing until 180 days following the date of the denial notice.

(4) If a provider requests a hearing to contest a fitness determination resulting in a denial of eligibility for payment, the provider remains ineligible for payment pending the hearing unless the decision to deny eligibility was based on a mistake in identifying the person with the CH or CPS record.

Stat. Auth.: ORS 181.537, 411.060

Stats. Implemented: ORS 181.537, 411.060, 411.095

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06

DIVISION 170

REPORTING CHANGES

461-170-0010

Reporting Changes — Overview

A client is required to report a change in circumstances in accordance with the reporting system in which the client participates, OAR 461-170-0011; and

(1) For each program in which a client participates, the Department determines the appropriate reporting system. The Department's reporting systems are Change Reporting System (CRS), Simplified Reporting System (SRS), and Transitional Benefit Alternative (TBA). In addition to any required report form, when a client is required by this division of rules to report a change in circumstances, the report may be made by telephone, office visit, report form, or other written notice. The report must be made as follows:

(a) A client using CRS must report a change according to OAR 461-170-0011.

(b) A client using SRS must report a change according to OAR 461-170-0011 and 461-170-0102. An Interim Change Report form is processed according to OAR 461-170-0011 and 461-170-0101 to 461-170-0104.

(c) A client using TBA is not required to report any change.

(2) A change is considered reported effective the date a client, authorized representative, or ineligible student reports the information to a branch office (see OAR 461-001-0000) or to the Office of Private Health Partnerships (OPHP).

(3) In the ERDC and SNAP programs, when multiple changes are reported at the same time, they must be acted on at the time of reporting and have the same effective date.

(4) A change reported by a client, authorized representative, or ineligible student for one program is considered reported for all programs in which that client participates.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1992(Temp), f. & cert. ef. 5-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2010(Temp), f. & cert. ef. 11-1-10 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 15-2014, f. & cert. ef. 7-1-14

461-170-0011

Changes That Must Be Reported

(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 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.

(B) 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.

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

(c) For 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, GAM, OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect eligibility (see OAR 461-001-0000) 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) A change in resources.
- (G) A change in source or amount of income.

(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) A change in employment status.
- (D) A change in membership of the household group (see OAR 461-110-0210).
- (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 (see OAR 461-110-0210).

(B) A change in residence.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 412.014, 412.049, 413.085, 414.685, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. &

cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-170-0101

Simplified Reporting System (SRS); SNAP

In the SNAP program:

(1) OAR 461-170-0101 to 461-170-0104 establish and explain the Simplified Reporting System (SRS).

(2) A filing group (see OAR 461-110-0370) certified to receive SNAP program benefits for less than six months may not participate in SRS.

(3) A filing group with a member working under a JOBS Plus agreement may not participate in SRS.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.049

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 1-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-170-0102

Required Reports for the Simplified Reporting System (SRS) — Interim Change Report; SNAP

In the SNAP program:

(1) During the sixth month of a certification period (see OAR 461-001-0000), an individual participating in SRS and certified for benefits for longer than six months must submit to the Department, on a form designated by the Department, an Interim Change Report of household circumstances, unless the household has no earned income and each adult member is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).

(2) The required Interim Change Report form is considered complete when it is received by the Department by the last day of the sixth month of the certification period and:

(a) The individual completely and accurately answers all questions necessary to determine eligibility (see OAR 461-001-0000) and benefit amounts;

(b) The individual provides all required verification; and

(c) The form contains the signature of the primary person (see OAR 461-001-0015) or the authorized representative (see OAR 461-001-0000 and 461-115-0090).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-170-0103

Actions Resulting From Changes in Household Circumstances; Simplified Reporting System (SRS); SNAP, JPI

In the SNAP program and JPI, benefits may be changed for an individual using SRS — based on information obtained other than through the Interim Change Report — only as follows:

(1) The benefit level is increased if the information demonstrates the individual is eligible for greater benefits.

(2) The benefits are closed or reduced if any of the following subsections apply:

(a) The household requests a closure of benefits.

(b) The action is based on information that is verified upon receipt. Information is considered verified upon receipt if:

(A) It is not questionable and the individual making the report has first-hand knowledge of the information reported; or

(B) Verification is provided with the reported change in accordance with OAR 461-115-0651.

(c) The individual reports information that results in loss of eligibility (see OAR 461-001-0000).

(d) The individual reports financial group (see OAR 461-110-0530) income exceeding the SNAP program countable (see 461-001-0000) income limit.

(3) The Department acts on information reported through computer matches when the Interim Change Report is processed, when the individual is recertified, or when the monthly match with the Department of Corrections indicates a member is incarcerated.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.816, 411.825, 411.837

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 27-2015(Temp), f. 9-29-15, cert. ef. 10-1-15 thru 3-28-16

461-170-0104

Failure to Submit Interim Change Report; Simplified Reporting System (SRS); SNAP

In the SNAP program:

(1) If the Department does not receive a complete Interim Change Report by the last day of the sixth month of the certification period (see OAR 461-001-0000), benefits for the seventh month of the certification period are suspended. If the Interim Change Report is not received during the month of suspension, the individual is ineligible for that month.

(2) If a completed Interim Change Report is received by the last day of the seventh month, it is used to determine eligibility (see OAR 461-001-0000) and benefit level for the seventh and remaining months of the certification period.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.816, 411.825, 411.837

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-170-0120

Monthly Change Report Incomplete or Not Received

If a Department branch office serving a program covered by this chapter of rules does not receive a completed Monthly Change Report by the last day of the payment month, the case is closed effective the end of the *budget month* (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2010, f. & cert. ef. 4-1-10

461-170-0130

Acting on Reported Changes; OSIPM, QMB

(1) When an OSIPM or QMB client, who is required by this division of rules to report a change in circumstances, makes a timely report of a change that could reduce or end medical benefits, prior to reducing or ending medical benefits:

(a) The Department must review each individual in the filing group for eligibility for the other medical programs listed in this rule; and

(b) The Oregon Health Authority, Cover Oregon, or the Department must review the individual for Medicaid eligibility under MAGI rules (OAR 410-200).

(2) If the Department needs additional information to act on the timely reported change, members of the benefit group (see OAR 461-110-0750) remain eligible from the date the change was reported until the Department determines their eligibility in accordance with the application processing time frames in OAR 461-115-0190.

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Hist.: SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08;

SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-170-0150

Certification Period; ERDC

In the ERDC program:

(1) The length of the certification period (see OAR 461-001-0000) may not be less than 12 months. In the following situations the certification period may be extended beyond the certification end date:

(a) Caretakers in authorized work search and medical leave are limited to no more than three months.

(b) Caretakers on military transition are limited to no more than six months.

(2) A filing group (see OAR 461-110-0310 and 461-110-0350) that is determined to be homeless (see OAR 461-001-0000) or requires child care for a current foster child may receive "priority processing." For purposes of this rule, "priority processing" means the benefits may be open for up to three months while pending for verification of income or work schedule during the application period.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 409.610, 411.060

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 13-1993(Temp), f. & cert. ef. 7-1-93; AFS 21-1993, f. & cert. ef. 10-12-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-170-0160

When a Reapplication Form is Considered Complete or Not Received; ERDC

In the ERDC program:

(1) At the end of the certification, authorized work search, medical leave, or military transition period (see OAR 461-160-0040(5)), whichever is later, a client must complete and return to a Department branch office (see OAR 461-001-0000) a reapplication form before a new certification period may be established under OAR 461-170-0150.

(2) A reapplication form is considered complete when it is received by a Department branch office by the 10th day of the last month of the certification, authorized work search, medical leave, or military transition period, whichever is later, and:

(a) The client answers, completely and accurately, all questions necessary to determine a copy amount for the following certification period;

(b) The client provides all required verification; and

(c) The form contains the signature of the primary person (see OAR 461-001-0000) or the authorized representative (see OAR 461-115-0090).

(3) When a Department branch office receives a completed reapplication form by the deadline in section (2) of this rule, the form is used to:

(a) Determine eligibility for ERDC benefits;

(b) Establish the ERDC benefit copay amount for the next certification period; and

(c) Establish the next certification period as beginning on the first day of the month following the last month of the previous certification, authorized work search, medical leave, or military transition period, whichever is later.

(4) When a Department branch office does not receive a completed reapplication form on or before the deadline in section (2) of this rule, the case is closed effective the last day of the last month of the certification, authorized work search, medical leave, or military transition period, whichever is later.

(5) If the reapplication form is received after the deadline in section (2) of this rule, it is treated as a new application in accordance with OAR 461-115-0050.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 409.610, 411.060, 411.105, 411.111

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-170-0170

Periodic Review Form Incomplete or Not Received

(1) If the branch office does not receive a completed Periodic Review form by the last day of the last month in the APR period, close the case effective the end of that month.

(2) If the branch office receives a completed Periodic Review form by the last day of the month following the last month of the APR period, use it to determine eligibility and establish an ERDC copay. The next APR period begins on the first of the month following the last month of the previous period.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.105, 411.111 & 411.816

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99

461-170-0200

State and Federal Government-Initiated Changes

A client is not required to report any of the following changes:

(1) Periodic cost-of-living adjustments to the federal Black Lung Program, SSB (Social Security Benefits), SSDI, SSI, and veterans assistance under Title 38 of the United States Code.

(2) Periodic cost-of-living adjustments to ERDC, GA, OSIP, REF, SFPSS, and TANF standards.

(3) Other changes in eligibility criteria based on legislative or regulatory actions.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.009, 412.014, 412.049, 412.089

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

DIVISION 175

DECISION NOTICES

461-175-0010

What a Decision Notice Must Include

(1) A *decision notice* (see OAR 461-001-0000):

(a) Specifies the date the notice is mailed, which is the effective date for a basic decision notice (see OAR 461-001-0000).

(b) Except as provided in section (2) of this rule, specifies the action the Department intends to take and the effective date of the action.

(c) Specifies the reasons for the action.

(d) In the SNAP program, except as provided in paragraph (2)(c)(B) of this rule, provides the name and phone number of the Department staff person or identifies the office to contact for additional information.

(e) Informs the client of the extent to which the client has a right to a hearing before an impartial person.

(f) Specifies the method and deadline for requesting a hearing.

(g) Informs the client of the right to representation, including legal counsel, and the right to have witnesses testify on his or her behalf.

(h) Provides information about the availability of free legal help.

(i) Cites the rules that support the action.

(2) If benefits are reduced or closed to reflect cost-of-living adjustments in benefits or any other mass change under a program operated by a federal agency or to reflect a mass change to payments in a program operated by the Department:

(a) The requirements in subsection (1)(b) of this rule are optional. Instead of specifying the action the Department intends to

take and the effective date of the action, the decision notice may state all of the following:

- (A) The general nature of the change.
- (B) Examples of how the change affects a client's benefits.
- (C) The month in which the change will take place.
- (b) The decision notice must also state the client's right to continue receiving benefits.
- (c) In the SNAP program:
 - (A) The decision notice must also state under what circumstances benefits will be continued pending a hearing.
 - (B) The requirements in subsection (1)(d) of this rule are optional. A decision notice may indicate instead that a client may contact a local office or worker for additional information.

(3) In the SNAP program, a continuing benefit decision notice (see OAR 461-001-0000) and a decision notice under section (2) of this rule also must state that the client's household will incur a liability for any overissued benefits if:

- (a) Benefits are continued pending the hearing; and
- (b) The hearing decision is adverse to the client.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-175-0050

Notice Period

The notice period is used to determine the effective date for taking action when a decision notice (see OAR 461-001-0000) is sent to the filing group:

(1) For a basic decision notice (see OAR 461-001-0000), the notice period is the month in which the notice is mailed.

(2) For a continuing benefit decision notice (see OAR 461-001-0000), the notice period is the budget month from which information is used to initiate the decision notice.

(3) For a timely continuing benefit decision notice (see OAR 461-001-0000), the notice period is the month in which the mailing requirement ends. Except as provided in OAR 461-175-0206, this mailing requirement is 15 calendar days for clients in the Address Confidentiality Program (see OAR 461-001-0000) and 10 calendar days for all other clients.

Stat. Auth.: ORS 411.060, 411.730, 411.816, 412.049

Stats Implemented: ORS 411.060, 411.730, 411.816, 412.049

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 8-2008, f. & cert. ef. 4-1-08

461-175-0200

Notice Situations; General Information

(1) In the EA program, a basic decision notice (see OAR 461-001-0000) is sent for all situations.

(2) In the SNAP program, a basic decision notice is sent for all actions on applications for assistance.

(3) In the JOBS program:

(a) A basic decision notice is sent whenever a request for a support service payment is denied.

(b) No decision notice is required if request for a support service is approved.

(4) A basic decision notice is sent to close JPI benefits when the filing group (see OAR 461-110-0310) reports a change during the reporting period in which SNAP benefits do not decrease.

(5) In the TANF program, a notice approving benefits informs the client, within one month following eligibility determination, of the opportunity to volunteer for JOBS participation and of the procedure for JOBS program entry.

(6) In the Pre-TANF program, a basic decision notice is sent when payment for basic living expenses is denied or when payment for other support services in the JOBS program is denied. No other notices are required for this program.

(7) In the TA-DVS program, a basic decision notice (see OAR 461-001-0000) is sent to a safe mailing address or hand delivered for all situations. This includes when the program is approved, denied, or closed (prior to the end of the 90 day eligibility period) and when a payment under the program is denied.

(8) In all programs except the Pre-TANF program, unless stated differently in this rule or another rule, the Department mails or otherwise provides the client with (sends) a decision notice (see OAR 461-001-0000) as follows:

(a) A basic decision notice is sent whenever an application for assistance, including retroactive medical assistance, is approved or denied or a request for a support service payment in the JOBS program is denied.

(b) A timely continuing benefit decision notice (see OAR 461-001-0000) is sent whenever benefits or support service payments authorized by 461-190-0211 are reduced or closed, or the method of payment changes to protective, vendor, or two-party.

(c) A decision notice is sent whenever the Department adjusts previously underissued cash assistance or SNAP benefits.

(9) In all programs:

(a) Notwithstanding any rule in Chapter 461, to the extent permitted by OAR 137-003-0530, the Department may take any of the following actions:

(A) Amend a decision notice with another decision notice or a contested case notice.

(B) Amend a contested case notice.

(C) Delay a reduction or closure of benefits as a result of a client's request for hearing.

(D) Extend the effective date on a decision notice or contested case notice.

(b) Except as provided in subsection (a) of this section or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice. If the notice is void, a new notice is sent to inform the financial group (see OAR 461-110-0530) of a new date on which their benefits will be reduced or closed.

(c) No decision notice is required in each of the following situations:

(A) Benefits are ended because there is no living person in the benefit group (see OAR 461-110-0750).

(B) A notice was sent, the client requested a hearing, and either the hearing request is dismissed or a final order is issued.

(C) The client has signed a voluntary agreement that qualifies as a final order under ORS 183.417(3)(b) (see OAR 461-175-0340(2)).

(D) 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.

(d) When the Department amends a decision notice with another decision notice under subsection (a) of this section, the date of the amended notice restarts the client's deadlines to request a hearing or continuing benefits, or both.

(e) When a contested case notice extends an effective date or delays a reduction or closure, the date of the amended notice restarts a client's timeline to request continuing benefits.

(f) When a client has a pending hearing request or is receiving continuing benefits, and the Department amends a notice under this section, the client need not re-file the hearing request or renew the request for continuing benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231

Stats. Implemented: ORS 183.415, 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef.

4-1-05; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 16-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 11-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 3-2010(Temp), f. & cert. ef. 2-23-10 thru 8-22-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 27-2015(Temp), f. 9-29-15, cert. ef. 10-1-15 thru 3-28-16

461-175-0205

Notice Situation; Benefits for Less Than 30 Days

To end benefits if a client receives them for less than 30 days, send the following notice:

(1) For all programs except SNAP, a basic decision notice.

(2) For SNAP:

(a) A basic notice if the information on ending benefits is included in the initial approval notice;

(b) In all other situations, a timely continuing benefit decision notice.

Stat. Auth.: ORS 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-175-0206

Notice Situation; Benefit Standard Changes; Not SNAP

(1) If the basis for a decision to reduce, suspend, or close a grant of public assistance or medical assistance is a change to a benefit standard, a timely continuing benefit decision notice is sent at least 30 calendar days before the effective date of the action, or if the Department has fewer than 60 days before the effective date to implement a change to a benefit standard:

(a) At least 15 working days before the effective date of the action for clients in the Address Confidentiality Program (see OAR 461-001-0000).

(b) At least 10 working days before the effective date of the action for clients not in the Address Confidentiality Program.

(2) For purposes of this rule, the term "change to a benefit standard" means a change to the applicable inflation-adjusted contribution, income, or payment standard. It does not include the annual adjustment to a standard based on a federal or state inflation rate.

(3) This rule does not apply in the SNAP program.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 412.014, 412.049

Stats. Implemented: ORS 192.856, 409.010, 411.060, 411.095, 411.404, 412.014, 412.049

Hist.: SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-175-0207

Notice Situation; Child Care Benefit Calculation

For decisions concerning ERDC or TANF child care benefits, the Department sends a continuing benefit decision notice when benefits are calculated in accordance with OAR 461-155-0150.

Stat. Auth.: ORS 411.060, 411.105, 411.111 & 411.630

Stats. Implemented: ORS 411.060

Hist.: AFS 6-1993(Temp), f. & cert. ef. 4-6-93; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 7-2003, f. & cert. ef. 4-1-03

461-175-0210

Notice Situation; Client Moved or Whereabouts Unknown

(1) To end benefits for an individual who has moved out of Oregon, the Department sends the following decision notice (see OAR 461-001-0000):

(a) In the ERDC, GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:

(A) The Department sends a timely continuing benefit decision notice (see OAR 461-001-0000) to the individual who has moved out of Oregon.

(B) The Department sends a basic decision notice (see OAR 461-001-0000) if the individual becomes eligible for benefits in another state.

(b) In the JPI and SNAP programs, no decision notice is required if the Department determines that the benefit group (see OAR 461-110-0750) has moved out of Oregon.

(2) If Department mail or benefits have been returned with no forwarding address, the Department gives the individual the benefits if the individual's whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when SNAP benefits may be sent out of Oregon. If the individual's whereabouts are unknown, the Department ends benefits by sending the following decision notice to their last known address:

(a) In all programs except the JPI and SNAP programs, a basic decision notice.

(b) In the JPI and SNAP programs, no decision notice is required.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-29-12; SSP 22-2012, f. 6-29-12, cert. ef. 6-30-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 33-2013(Temp), f. & cert. ef. 10-3-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 30-2014(Temp), f. & cert. ef. 11-14-14 thru 5-12-15; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15

461-175-0220

Notice Situation; Disqualification

(1) If a *benefit group* (see OAR 461-110-0750) or individual is disqualified for a SNAP voluntary job quit or for failure to apply for or provide an SSN, pursue assets, cooperate in the JOBS, JOBS Plus, or OFSET program, or assist the state's efforts to collect support, the Department sends the following type of notice:

(a) If benefits are reduced or closed because of the disqualification:

(A) A *continuing benefit decision notice* (see OAR 461-001-0000) is used when changes are reported on the Interim Change Report form.

(B) A *timely continuing benefit decision notice* (see OAR 461-001-0000) is used when changes are not reported on the Interim Change Report form.

(b) If benefits are opened without the disqualified individual in the *benefit group* or if the entire *benefit group* is denied assistance, a *basic decision notice* (see OAR 461-001-0000) is used.

(2) For a JOBS, JOBS Plus, or OFSET disqualification, and for a SNAP voluntary job quit by an individual receiving SNAP benefits, the notice includes the following information:

(a) The client action that resulted in disqualification.

(b) The length of the minimum disqualification period.

(c) The reduced benefit amount.

(d) How the client may end the disqualification after the minimum period.

(3) For a voluntary job quit by an individual applying for SNAP benefits, the notice includes the following information:

(a) The action that resulted in the disqualification; and

(b) The length of the disqualification period.

(4) For an IPV disqualification:

(a) A *basic decision notice* is required if an individual in the *benefit group* is disqualified for an IPV as the result of a court order or a final order from an administrative hearing.

(b) A *continuing benefit decision* is required if an individual in the *benefit group* is disqualified for an IPV based on a signed waiver.

(5) For a disqualification due to being a fleeing felon or in violation of parole, probation, or post-prison supervision (under OAR 461-135-0560):

(a) A *basic decision notice* is required if benefits are opened without the disqualified individual in the *benefit group* or if the entire filing group is denied benefits.

(b) A *timely continuing benefit decision notice* is required if an individual in the *benefit group* is disqualified.

(6) The notice situation for a disqualification due to a transfer of assets is covered in OAR 461-175-0310.

Stat. Auth.: 411.060, 411.070, 411.404, 411.816, 412.014 & 412.049
 Stats. Implemented: 411.060, 411.070, 411.404, 411.816, 412.014 & 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2010, f. & cert. ef. 4-1-10

461-175-0222

Notice Situations — Expiration of Certification Period; ERDC, SNAP, TANF

In the ERDC, SNAP, and TANF programs:

(1) Except in the ERDC program, the Department must provide a household certified for one month or certified in the second month of a two-month certification period (see OAR 461-001-0000) a notice of expiration at the time of certification.

(2) In the ERDC program, each household must receive a notice of expiration prior to the last month of the certification period.

(3) In the ERDC program, the notice of expiration must contain:

- (a) The date the certification period expires.
- (b) A statement that to receive benefits, the client must reapply and be found eligible for a new benefit amount.
- (c) The household's right to request a contested case hearing if the reapplication is denied or if the household objects to the benefit amount.

(4) In the SNAP program, each household other than those covered under section (1) of this rule must receive a notice of expiration before the first day of the last month of the certification period (established per OAR 461-115-0450), but not before the first day of the next-to-the-last month.

(5) In the SNAP program, notice of expiration under this rule is provided to the filing group (see OAR 461-110-0370) and must contain all of the following:

- (a) The date the certification period expires.
- (b) The date by which a household must submit an application for recertification to receive uninterrupted benefits.
- (c) The consequences of failure to apply for recertification in a timely manner.
- (d) The right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address.
- (e) Information on alternative submission methods available to households that are not able to come into the certification office or do not have an authorized representative and how to exercise these options.
- (f) The address of the office where the application must be filed.
- (g) The household's right to request a contested case hearing if the recertification is denied or if the household objects to the benefit amount.
- (h) A statement that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for SNAP program benefits recertification at an office of the Social Security Administration.
- (i) A statement that failure to attend an interview may result in delay or denial of benefits.
- (j) A statement that the household is responsible for rescheduling a missed interview and for providing required verification information.
- (k) A statement that the client has no rights to continuation of benefits after the SNAP program certification period expires; and that to receive benefits, the client must reapply and be found eligible for a new benefit amount after the end of the certification period, including a client who is receiving continuation of benefits when his or her SNAP program certification period ends.

(6) In the TANF program, each household other than those covered under section (1) of this rule must be sent:

(a) Before the first day of the last month of the certification period (see OAR 461-001-0000 and 461-115-0430), but not before the first day of the next-to-the-last month, a recertification packet that contains application forms, deadlines, and information about the consequences of not reapplying on time; and

(b) A basic decision notice (see OAR 461-001-0000) about the expiration of the certification period (see OAR 461-001-0000 and 461-115-0430).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049
 Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; Renumbered from 461-115-0510, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 15-2010, f. & cert. ef. 5-27-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-175-0225

Notice Situation; Institution/Income and Resource Allowances

If an institutionalized spouse is determined eligible for OSIPM, or upon request by either spouse, or a person acting on behalf of either spouse, send a basic decision notice to each spouse or each person's authorized representative, containing all the following:

- (1) The amount of the community spouse's income allowance.
- (2) The amount of income allowances for family members.
- (3) The method for computing the income allowances for the community spouse and family members.
- (4) The amount of the community spouse's resource allowance.
- (5) The method for computing the community spouse's resource allowance.
- (6) Either spouse's right to a hearing regarding ownership or availability of income or resources, and the determination of the community spouse's income or resource allowance.

Stat. Auth.: ORS 411.060, 411.070 & 411.404
 Stats. Implemented: ORS 183.415, 411.060, 411.070 & 411.404
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-175-0230

Notice Situation; Nonstandard Living Situations

- (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) 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.

(b) A continuing benefit decision notice (see OAR 461-001-0000) when there is an increase in the client liability.

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

Stat. Auth.: ORS 411.060, 411.101, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.099, 411.101, 411.111, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2014, f. & cert. ef. 4-1-14

461-175-0240

Notice Situation; Lump-Sum

(1) If a *financial group* (see OAR 461-110-0530) receives lump-sum income that will make the financial group ineligible or cause a reduction in benefits:

(a) The Department will deny benefits to an applicant and send a basic decision notice (see OAR 461-001-0000).

(b) If a *benefit group* (see OAR 461-110-0750) is receiving benefits, the Department will stop or reduce them and:

(A) If the action is based on changes reported on the Interim Change Report form, send a continuing benefit decision notice (see OAR 461-001-0000).

(B) If the action is not based on changes reported on the Interim Change Report form, send a timely continuing benefit decision notice (see OAR 461-001-0000).

(2) In the GA program, the decision notice described in section (1) of this rule includes:

(a) The amount of the countable lump-sum income.

(b) The calculation of this income on a monthly basis.

(c) The length of time that the benefit group is ineligible because of receipt of lump-sum income and the amount that will be included as countable income in the first month of eligibility.

Stat. Auth.: ORS 411.060, 411.095, 411.816

Stats. Implemented: ORS 411.060, 411.095, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 24-2001, f. & cert. ef. 11-1-01; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 32-2010, f. & cert. ef. 10-1-10

461-175-0250

Notice Situation; Mass Changes

(1) If benefits are reduced or closed to reflect cost-of-living adjustments in benefits or other mass change under a program operated by a federal agency or to reflect a mass change to payments in a program operated by the Department:

(a) Except as provided in subsection (b) of this section, the type of decision notice (see OAR 461-001-0000) used is the same as otherwise applies to the reduction or closure of benefits under the rules of this division.

(b) In the SNAP program, a *continuing benefits* decision notice (see OAR 461-001-0000) may be used if the rules in this

division of rules would otherwise require a timely continuing benefits decision notice (see OAR 461-001-0000).

(c) OAR 461-175-0010(2) and (3) modify the content requirements for the decision notice that apply to other decision notices under OAR 461-175-0010(1).

(2) In the SNAP program, no decision notice is required when the Department makes the following mass changes:

(a) An annual adjustment to income limits, the shelter deduction, or the standard deduction.

(b) An annual adjustment to a standard utility allowance.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-175-0270

Notice Situation; SRS or TBA

(1) When the Department takes action on information reported on the Interim Change Report form, the Department sends a continuing benefit decision notice (see OAR 461-001-0000) for clients in the ERDC, OSIP, OSIPM, QMB, REF, REFM, SNAP, and TANF programs. The notice includes the amount of income used to determine the benefits or ineligibility.

(2) For all changes not reported on the Interim Change Report form, which result in a closure or reduction in benefits, the Department sends a timely continuing benefit decision notice.

(3) When the Department changes the reporting system from one reporting system to another reporting system, the Department provides a continuing benefit decision notice if the change occurs at a time other than at the start of a certification period (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.095, 411.111, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-175-0280

Notice Situation; Failure to Submit Report for SRS or ERDC Reapplication

(1) In the ERDC program, the Department sends a continuing benefit decision notice (see OAR 461-001-0000) to close benefits when the benefit group (see OAR 461-110-0750) fails to return the reapplication form. The case is closed on the last day of the last month of the certification period (see OAR 461-001-0000).

(2) In the SNAP program, the Department sends a continuing benefit decision notice when a benefit group in Simplified Reporting System (SRS) fails to return the Interim Change Report by the 10th day of the sixth month of the certification period. The notice informs the benefit group that:

(a) The report was not received by the Department by the 10th day of the sixth month in the certification period.

(b) The benefit group has until the end of the sixth month of the certification period to provide the report to receive benefits for the seventh month of the certification period.

(c) If the report is not received by the Department by the last day of the sixth month of the certification period, SNAP program benefits will be suspended effective the last day of the sixth month.

(d) The SNAP program case remains in suspended status for a month and then is closed.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.095, 411.816

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.087, 411.095, 411.816, 411.825, 411.837
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-175-0290

Notice Situation; Overpayment Repayment

When benefits are reduced for recovery of an overpayment (see OAR 461-195-0551) a timely continuing benefit decision notice (see OAR 461-001-0000) is sent for the first month of the reduction.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12

461-175-0300

Notice Situation; Prior Notice

(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 ERDC program when a filing group (see OAR 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).

(c) In the OSIPM program:

(A) A client's liability returns to the previous higher level after the Department sent the client a continuing benefit decision notice for a decrease in the client liability due to an allowable deduction and that notice also specified when the deduction no longer would apply causing the client liability to return to the previous higher level; 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.

(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.

Stat. Auth.: 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
Stats. 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
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 25-1994, f. & cert. ef. 11-1-94; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 3-2005(Temp), f. & cert. ef. 3-2-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-175-0305

Notice Situation; Removing an Individual From a Benefit Group (REF, REFM, SNAP, TANF) or Need Group (ERDC)

(1) To remove an individual from a benefit group (see OAR 461-110-0750), the following notices are used:

(a) A continuing benefit decision notice (see OAR 461-001-0000) is used when the removal is based on information reported on the Interim Change Report form.

(b) A timely continuing benefit decision notice (see OAR 461-001-0000) is used when the removal is not based on the Interim Change Report form.

(2) In the ERDC program, the Department sends a timely continuing benefit decision notice to remove an individual from the need group (see OAR 461-110-0630).

(3) In the REF, REFM, and TANF programs, if a child is removed from the benefit group as a result of a court order or a voluntary placement in foster care by the child's caretaker relative (see OAR 461-001-0000), a basic decision notice (see OAR 461-001-0000) is used.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Hist.: AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-175-0310

Notice Situation; Resource Transfer Disqualification

(1) When the Department proposes to disqualify a filing group because of a disqualifying transfer of assets (see OAR 461-140-0210), the following notice is sent:

(a) For new applicants, a basic decision notice.

(b) For ongoing clients, a timely continuing benefit decision notice.

(2) A notice required by this rule includes the amount of uncompensated value used in the eligibility determination and the period of ineligibility caused by the transfer.

(3) In the GA, GAM, OSIP, OSIPM and QMB programs, the notice must also include:

- (a) The action that resulted in the disqualification, and
- (b) Information that the client, or the facility in which the client resides (on behalf of the client), may apply for a waiver of the disqualification on the basis of undue hardship.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

461-175-0320

Notice Situation; Restoring SNAP Benefits

In the SNAP program, after the Department determines whether a person is entitled to restoration of benefits, the person is entitled to a basic decision notice that includes the amount to be restored, any offsetting that was done, and the manner in which the benefits will be restored. Once the Department sends the notice, no additional notice is required when the restoration payments stop.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2002, f. & cert. ef. 7-1-02

461-175-0340

Notice Situation; Voluntary Action

(1) Unless the Department chooses to proceed as described in section (2) of this rule:

(a) For all programs except the SNAP program, if the primary person (see OAR 461-001-0000), another adult member of the filing group, or the authorized representative:

(A) Makes an oral request to end or reduce benefits, a timely continuing benefit decision notice (see OAR 461-001-0000) is sent.

(B) Makes a signed, written request to withdraw, end, or reduce benefits, a basic decision notice (see OAR 461-001-0000) is sent.

(C) Makes an oral request to withdraw an application for benefits, a basic decision notice is sent.

(b) In the SNAP program, when the filing group (see OAR 461-110-0370) states it wishes to withdraw its benefits request, or states it wishes to reduce or no longer receive benefits:

(A) If the request is made by phone to end or reduce benefits, a timely continuing benefit decision notice is sent.

(B) If the request is made in person to reduce benefits, a basic decision notice is sent.

(C) If the request to reduce benefits is signed by the primary person (see OAR 461-001-0000), another adult member of the filing group, or the authorized representative, a basic decision notice is sent.

(D) If the request to end benefits is signed by the primary person, another adult member of the filing group, or the authorized representative in the presence of a worker, no notice is required. If it is not signed in the presence of a worker, a basic decision notice is sent.

(E) If the client withdraws a signed request for benefits, a basic decision notice is sent.

(2) The Department may reduce or terminate benefits to an individual when the individual completes a voluntary agreement on a Department form used for this purpose. The Department provides the individual with a copy of the completed agreement and no other notice is required. The individual may request a hearing to set aside this agreement on the grounds of fraud, duress, or reliance on misinformation provided by the Department, subject to the time limits for hearing requests in OAR 461-025-0310.

(3) In the SNAP program, a timely continuing benefit decision notice is sent if the filing group returns a signed Change Report form with information that requires a reduction or closure of benefits.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 183.417, 411.060, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

DIVISION 180

EFFECTIVE DATES

461-180-0005

Effective Dates; Acting on Changes; ERDC

In the ERDC program:

(1) For changes reported on the reapplication form, the effective date is:

(a) The first day of the next certification period (see OAR 461-001-0000); or

(b) If changes will end benefits, the last day of the current certification period.

(2) For changes not reported on the reapplication form:

(a) For changes that require the certification period to be shortened, the effective date for the end of the certification period becomes the last day of the month in which the notice period ends. If the notice period ends the month after the change is reported, and the information results in an increase in benefits, adjust benefits for the last month of the shortened certification period.

(b) For all other changes that will cause:

(A) An increase in benefits, the effective date is the first of the month after the filing group (see OAR 461-110-0350) reports the change.

(B) A decrease in benefits, the effective date is the first of the month after the notice period ends.

(c) For changes that will end benefits, the effective date is the last day of the month in which the notice period ends.

Stat. Auth.: ORS 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070

Hist.: AFS 13-1993(Temp), f. & cert. ef. 7-1-93; AFS 21-1993, f. & cert. ef. 10-12-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 28-2009, f. & cert. ef. 10-1-09

461-180-0006

Effective Dates; Changes in the Simplified Reporting System (SRS); SNAP

In the SNAP program:

(1) The effective date of a change based on an Interim Change Report is:

(a) The first day of the seventh month of the certification period (see OAR 461-001-0000); or

(b) If the change causes benefits to close, the last day of the sixth month of the certification period.

(2) The effective date of a change not based on an Interim Change Report is as follows:

(a) For a change resulting in an increase in benefits, the effective date is determined in accordance with OAR 461-180-0010 and 461-180-0020.

(b) For a change resulting in a decrease in benefits, the effective date for reducing benefits is the first of the month following the month in which the decision notice period ends.

(c) For a change resulting in a closure of benefits, the effective date is the last day of the month in which the notice period ends.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-180-0010

Effective Dates; Adding a New Person to an Open Case

(1) In the following programs, the effective date for adding an individual (other than an assumed eligible newborn) to the benefit group (see OAR 461-110-0750) is one of the following:

(a) In the GAM, OSIPM, and REFM programs, it is whichever occurs first:

(A) The date the client requests benefits, if the client was eligible as of that date.

(B) The date all eligibility requirements are met.

(b) In the SNAP program:

(A) If adding the individual increases benefits, it is the first of the month after the filing group (see OAR 461-110-0370) reports the person has joined the household group (see OAR 461-110-0210). If verification is requested, the effective date for the change is:

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

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

(B) If adding the individual reduces benefits, it is the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

(c) In the GA, OSIP, REF, SFPSS, and TANF programs, it is the date on which all eligibility requirements are met and verified. If benefits have been issued for the month and adding the new person would reduce benefits, the person is added the first of the month following the month in which the notice period ends (see OAR 461-175-0050).

(d) In the QMB-BAS and QMB-DW programs, it is the first of the month after the new individual has been determined to meet all QMB eligibility criteria and the Department receives the required verification.

(e) In the QMB-SMB program, it is the first of the month in which the new individual has been determined to meet all QMB-SMB eligibility criteria and the Department receives the required verification.

(f) In the SFPSS and TANF programs, for adding a child (see OAR 461-001-0000) to be covered by a provider-direct child care payment, it is the first of the month in which the child is added to the benefit group.

(2) In the following programs, the effective date for adding an assumed eligible newborn to the benefit group is one of the following:

(a) In the GAM, OSIPM, and REFM programs, it is the date of birth if all the following paragraphs are true. If any of the following paragraphs is not true, the newborn is added to the benefit group in accordance with section (1) of this rule.

(A) A request for benefits is made within one year of the birth. For purposes of this paragraph, a telephone call from the attending physician, another licensed practitioner, a hospital, or the family is considered a request for benefits.

(B) The newborn has continuously lived with the mother since the date of birth.

(C) The mother was receiving GAM or OSIPM on the date of birth, even if she is not currently eligible for benefits.

(b) In the SFPSS and TANF programs, it is:

(A) The date of birth, if all eligibility requirements are met and verified within 45 days after the birth; or

(B) The date all eligibility factors are met and verified, if the verification is completed more than 45 days after the date of birth.

(3) In the ERDC program, the effective date for adding an individual to the need group (see OAR 461-110-0630) or benefit group is as follows:

(a) If adding the individual to the need group will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.

(b) If adding the individual to the need group increases the copay — for instance, because the individual receives income — the effective date is the first of the month following the end of the decision notice period (see OAR 461-175-0050).

(c) The effective date for adding a child to the benefit group — that is, covering the cost of the child's care — is the earliest of the following:

(A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.

(B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.

(C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0020

Effective Dates; Changes in Income or Income Deductions That Cause Increases

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 OSIP program, the effective date for an anticipated change is:

(a) The first of the month in which the change occurs if the change is reported by the 10th day of the month following the month the change occurred; or

(b) 10 days before the change is reported, if it is reported after the 10th day of the month following the month the change occurred.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0030

Effective Dates; Changes in Income or Income Deductions that Cause Reductions

For all cases except those assigned to the SRS or TBA reporting systems, this rule is used to determine the effective date when changes in income or income deductions cause a decrease in benefits. The effective date for reducing benefits is the first day of the month following the month in which the notice period (see OAR 461-175-0050) ends.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
 Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049
 Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10

461-180-0040

Effective Dates; Special and Service Needs

(1) The effective date for a special need is the date of request for the special need item.

(2) The effective date for long-term care is determined as follows:

(a) For in-home services the effective date is the date the Department authorizes the service plan. An authorized service plan must:

(A) Specify the date when services will begin (this date cannot be prior to the date that the service plan is completed) and the maximum number of hours authorized; and

(B) Identify the enrolled homecare worker (see OAR 411-031-0020 and 411-031-0040) or contracted in-home care agency (see OAR 411-030-0090) the client has employed to provide the authorized services. For the purposes of this paragraph, employed means that the homecare worker or agency has agreed to provide the services as authorized by the service plan.

(b) For a client residing in, or who will reside in a licensed community-based setting or Medicaid-certified nursing facility the effective date is the later of the following:

(A) The date of request for services; or

(B) The date the individual begins residing in the community-based setting or nursing facility.

(3) The effective date for a reduction or termination in services is the later of the following:

(a) The end of the ten-day notice mailing period; and

(b) The termination date of a service plan.

(4) The effective date for a reduction or termination of an ongoing special need is the end of the timely continuing benefit notice period.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 17-2008, f. & cert. ef. 7-1-08

461-180-0044

Effective Dates; Income Cap Trust

The effective date for an income cap trust that makes a client income-eligible for long term care or home and community-based care (see OAR 461-001-0030) under 461-135-0750 and 461-145-0540(9)(c) is the first day of the month in which the trust document is signed.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 16-2006(Temp), f. 12-29-06, cert. ef. 1-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13

461-180-0050

Effective Dates; Suspending or Closing Benefits and JOBS Support Service Payments

(1) This rule explains the effective date for closing or suspending benefits for the entire benefit group (see OAR 461-110-0750) and the effective date for ending JOBS support service payments.

(2) In all programs except the ERDC program, when the only individual in a benefit group dies, the effective date of the closure is:

(a) In the REF, SNAP, and TANF programs, the last day of the month in which the death occurred.

(b) In all other programs, the date of the death.

(3) For all closures and suspensions not covered by section (2) of this rule, the effective date is determined as follows:

(a) When prospective eligibility is used, the effective date for closing or suspending benefits is the last day of the month in which the notice period ends.

(b) When retrospective eligibility or budgeting is used, the effective date for closing or suspending benefits is the last day of the budget month.

(c) When an absent parent enters an ongoing TANF program household, or another change occurs that ends eligibility based on the incapacity or unemployment of a parent, the effective date for closing benefits is the last day of the month in which the 45-day period described in OAR 461-125-0255 ends.

(d) For a pregnant female receiving benefits of the OSIPM program, the effective date for closing benefits is no earlier than the last day of the calendar month in which the 60th day after the last day of pregnancy falls, except at the client's request.

(e) For a client who is receiving medical assistance and becomes incarcerated with an expected stay of a year or less, the effective date for suspending medical benefits is the effective date on the decision notice (see OAR 461-001-0000).

(f) The effective date for ending support service payments authorized under OAR 461-190-0211 is the earlier of the following:

(A) The date the related JOBS activity is scheduled to end.

(B) The date the client no longer meets the requirements of OAR 461-190-0211.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 18-2004, f. & cert. ef. 7-12-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0060

Effective Dates; Denial of Benefits

The effective date for denying benefits is the earlier of the following:

(1) The date the decision is made that the client is not eligible; or

(2) The end of the application processing time frame, if the application or required verification is incomplete.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92

461-180-0065

Effective Dates; Ending Disqualifications

(1) The effective date for ending a JOBS disqualification or a disqualification related to diagnosis, counseling, or treatment for substance abuse or mental health is:

(a) The date the client meets the requirements for ending the JOBS disqualification (see OAR 461-130-0335); or

(b) The date the client meets the requirements for ending the disqualification for failure to comply with OAR 461-135-0085(1) (see OAR 461-135-0089).

(2) In the GAM and OSIPM programs, the effective date for ending the disqualification for failing to enroll in cost-effective, employer-sponsored health insurance is the date the client provides verification of enrollment during the open enrollment period.

(3) In the SNAP program, the effective date for ending an employment program disqualification is the date the client fulfills the requirements to end the disqualification or the first of the month following the minimum disqualification period, whichever occurs later (see OAR 461-180-0010 regarding the effective date for adding a person to an open case).

(4) For an IPV disqualification, the disqualification ends the day after the minimum disqualification period ends, if there is no additional IPV disqualification to be served and all eligibility requirements are met.

(5) For all other disqualifications in the TANF program, the disqualification ends whenever the client agrees to cooperate.

(6) For other disqualifications in the SNAP program, the disqualification ends at the end of the disqualification period.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0070

Effective Dates; Initial Month Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made if:

(A) All eligibility (see OAR 461-001-0000) requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the individual requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date an individual requests benefits, if the individual was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is:

(a) If all eligibility requirements, including an interview, are completed by the 45th day from the date of request (see OAR 461-115-0030), the effective date for starting benefits is the filing date (see OAR 461-115-0040).

(b) If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(6) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting TANF benefits is one of the following:

(a) Except as provided in subsections (b) to (d) of this section, if all eligibility requirements, including a TANF interview, are completed by the 45th day from the date of request, the effective date for starting benefits is the filing date. If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(c) For an individual in the Pre-TANF program, the effective date for the initial month of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.

(d) For a JOBS support service payment, the effective date is the date the individual meets all eligibility requirements in OAR 461-190-0211.

(7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the "compute deadline," the initial month of SFPSS program benefits will be the first of the month following the month after "compute deadline." For purposes of this rule, "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-180-0080

Effective Dates; Initial Month SNAP Benefits

In the SNAP program:

(1) Except as provided in section (2) of this rule, for a filing group making an initial application or applying after the end of its certification period, the effective date for starting benefits is the filing date (see OAR 461-115-0050 and 461-115-0210), as long as all eligibility requirements are met on the filing date. If all eligibility requirements are not met on the filing date, the effective date is the date all eligibility requirements are met.

(2) For migrant and seasonal farmworkers that received SNAP benefits in another state the month before applying for SNAP in Oregon, the effective date for starting benefits is the first of the month.

(3) If a filing group is applying for benefits during the last two months of a certification period, the effective date is the first of the month following the end of the certification period, unless the filing group fails to complete the application process within the time frames listed in OAR 461-115-0210.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 10-1995, f. 30-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-180-0081

Effective Dates; Cases Receiving Transitional Benefit Alternative (TBA)

(1) The effective date for starting TBA benefits is the first day of the month after the TBA notice is mailed. The effective date can-

not precede the date the Department has determined the client is no longer eligible for TANF.

(2) Once a household begins to receive TBA benefits, the benefits are not changed until the end of the TBA period except that TBA benefits will be changed appropriately if a member of the household:

(a) Leaves the household and applies for SNAP benefits as a member of another household; or

(b) Becomes ineligible for TBA per OAR 461-135-0506.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-180-0085

Effective Dates; Redeterminations of OSIPM and QMB

In the OSIPM and QMB programs, when the Department initiates a redetermination of eligibility:

(1) Prior to reducing or ending medical benefits:

(a) The Department must review each individual in the filing group (see OAR 461-110-0410) for eligibility for the other medical programs listed in this rule; and

(b) The Oregon Health Authority, Cover Oregon, or the Department must review the individual for Medicaid eligibility under MAGI rules (OAR 410-200).

(2) If additional information is needed to redetermine eligibility, members of the benefit group (see OAR 461-110-0750) who may be eligible for the other programs listed in this rule remain eligible from the date the review is initiated until the Department, Cover Oregon, or the Oregon Health Authority determines their eligibility in accordance with the application processing time frames in OAR 410-200-0110.

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Hist.: SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) In the GAM, OSIPM, QMB-DW, and REFM programs:

(a) Except as provided for in subsection (b) of this section:

(A) If the client meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the date of request. An OSIPM program client who is assumed eligible under 461-135-0010(7) meets "all eligibility requirements" for the purposes of this section as follows:

(i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.

(ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.

(B) If the client does not meet all eligibility requirements on the date of request, it is the first day following the date of request that all eligibility requirements are met.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(2) In the QMB-BAS program, it is the first of the month after the benefit group (see OAR 461-110-0750) has been determined to meet all QMB-BAS program eligibility criteria and the Department receives the required verification.

(3) In the QMB-SMB and QMB-SMF programs, it is:

(a) The first of the month in which the benefit group meets all program eligibility criteria and the Department receives the required verification; or

(b) The first of the month in which the Low Income Subsidy (LIS) information is received by the Social Security Administration

(SSA), if the SMB or SMF program application was generated by the electronic transmission of LIS data from the SSA and the benefit group meets all program eligibility criteria.

(4) Retroactive eligibility is authorized under certain circumstances in some medical programs (see paragraph (1)(a)(A) of this rule, OAR 461-135-0875, and 461-180-0140).

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 1-2010(Temp), f. & cert. ef. 1-26-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 20-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14

461-180-0100

Effective Dates; Eligibility Following Closure

The new effective date of eligibility following closure of benefits or following the end of a certification period is determined as follows:

(1) For the SNAP program, see OAR 461 115 0450.

(2) In the ERDC program, eligibility starts the first day of the month of the date of request.

(3) In the TANF program:

(a) Eligibility starts on the date provided by OAR 461-180-0070 for TANF unless the client meets the requirements of subsection (b) of this section.

(b) Eligibility starts the first day of the month following closure if:

(A) The client contacts the Department during the month of closure; and

(B) Submits to the Department a complete application not later than the end of the month following closure.

(4) In all programs other than the ERDC, SNAP, and TANF programs:

(a) If the client completes the application process within the applicable time period described in chapter 461 of the Oregon Administrative Rules, eligibility starts on the first day of the month following closure if the filing group meets all eligibility requirements on that date and if:

(A) The filing group established a date of request (see OAR 461-115-0030 for the meaning of date of request) prior to closure; or

(B) The Department initiated a redetermination of eligibility prior to closure.

(b) If the client does not complete the application process within the time period described in chapter 461 of the Oregon Administrative Rules, the determination of an effective date requires a new date of request (see OAR 461-115-0030 for the meaning of date of request).

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0105

Effective Dates; Reductions Delayed Pending a Hearing Decision

(1) If a proposed reduction or closure of benefits or a proposed disqualification arising out of an employment program is delayed because the client requested a hearing, the proposed action takes effect in accordance with sections (2) and (3) of this rule.

(2) A disqualification is effective in the following programs on the first day of the month following issuance of a final order upholding the disqualification:

- (a) In the JOBS and JOBS Plus programs.
- (b) In the SNAP program, if the disqualification is a result of any of the following:

- (A) A job quit.
- (B) Failure to comply with a requirement in OAR 461-130-0320.

(C) Failure to comply with a requirement of the JOBS or UC employment program.

(3) All other reductions or closures are effective in accordance with the notice that precipitated the appeal.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Hist.: AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 31-2003(Temp), f. & cert. ef. 12-1-03 thru 12-31-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0110

Effective Dates; Reimbursement of Employer-Sponsored Health Insurance Premiums

The effective date for starting reimbursement of cost-effective employer-sponsored health insurance premiums per OAR 461-135-0990 is one of the following:

- (1) For new cases, the later of the following:
 - (a) The date of request; or
 - (b) If no member of the filing group is eligible for medical on the date of request, the date of initial medical eligibility.
- (2) For ongoing cases, the later of the following:
 - (a) The first of the month in which the insurance becomes effective; or
 - (b) The first of the month in which the benefit group requests reimbursement.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060

Hist.: AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92

461-180-0120

Effective Dates; Removing an Individual

The effective date for removing an individual from a benefit group (see OAR 461-110-0750) is one of the following:

- (1) If the individual has left the benefit group in the current budget month because he or she is ineligible, is disqualified, or has left the household, the effective date is:

(a) The first of the month after the notice period (see OAR 461-175-0050) ends, if the change will reduce benefits.

(b) The last day of the month in which the notice period ends, if the change will end benefits.

(2) If the individual is reasonably expected to leave the household next month, the effective date is the later of the following:

(a) The first of the month following the month in which the individual leaves the household group (see OAR 461-110-0210), if the change will reduce benefits.

(b) The end of the month in which the individual is expected to leave the household group, if the change will end benefits.

(3) When an individual in a benefit group of more than one individual dies, the effective date of the closure or reduction in benefits is one of the following:

(a) In the ERDC, REF, SNAP, and TANF programs, the last day of the month in which the 10-day notice period ends.

(b) For all programs not covered by subsection (a) of this section, the date of the individual's death.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 13-1993(Temp), f. & cert. ef. 7-1-93; AFS 21-1993, f. &

cert. ef. 10-12-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14

461-180-0125

Effective Dates; Reopen After Returned Mail; ERDC, SNAP

In the ERDC and SNAP programs, benefits may be reopened effective the first of the month when mail is returned by the U.S. Post Office marked "undeliverable, no forwarding address" in the following situation:

(1) Benefits ended as of the last calendar day of the prior month;

(2) The reason for the case closure was mail returned, no forwarding address; and

(3) The client contacted the Department within the first calendar month following the case closure with a new mailing address.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09

461-180-0130

Effective Dates; Restored Benefits

(1) The effective date for restoring benefits that were underpaid (including erroneous collections of overpayments) or denied or closed in error is set as follows:

(a) Except as provided in subsections (b) and (c) of this section, in all programs except the SNAP program, for underpayments resulting from administrative error, the effective date is the date the error was made.

(b) In all programs except as provided in subsection (c) of this section, benefits may be restored only for the preceding 12 months.

(c) JPI benefits may be restored only for the preceding four months and not to a date earlier than the individual is eligible under OAR 461-135-1260.

(d) In all programs except the SNAP program, for underpayments resulting from client error, the effective date is the earliest of the following:

(A) The month the benefit group (see OAR 461-110-0750) notifies the branch office (see OAR 461-001-0000) of the possible loss.

(B) The month the branch office discovers the loss.

(C) The date a hearing is requested.

(2) In the SNAP program, for underpayments resulting from administrative error, benefits are restored for not more than twelve months prior to whichever of the following occurs first:

(a) The date the benefit group notifies the branch office of the possible loss.

(b) The date the branch office discovers the loss.

(c) The date a hearing is requested.

(3) In the SNAP program, benefits are not restored for underpayments resulting from client error.

(4) The effective date for restoring benefits that have been suspended is:

(a) For individuals whose medical assistance is suspended because they are incarcerated with an anticipated stay of a year or less, see OAR 461-135-0950(8).

(b) When subsection (a) of this section does not apply:

(A) The first of the month after the suspension, if suspension was for only one month; or

(B) The date the benefit group again becomes eligible, if benefits have been suspended for more than 30 days. The Department treats the month in which benefits are restored as an initial month (see OAR 461-001-0000).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 414.231

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.439, 411.816, 412.014, 412.049, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2011(Temp), f. & cert. ef. 6-29-11 thru 12-26-11; SSP 28-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-26-11; SSP 32-2011, f. & cert.

ef. 12-27-11; SSP 33-2011(Temp), f. & cert. ef. 12-27-11 thru 6-24-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 20-2012(Temp), f. 5-23-12, cert. ef. 5-24-12 thru 11-20-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12

461-180-0140

Effective Dates; Retroactive Medical Benefits

(1) In the OSIPM program:
(a) If an applicant requests and is eligible for retroactive medical benefits, the earliest date the applicant may be eligible is three months before the date of request (see OAR 461-115-0030). For example, if the applicant requests benefits on July 10th, eligibility may begin as early as April 10.

(b) After the earliest date is established, eligibility is determined on a month-by-month basis. The period starts on the earliest established date and ends on the date the applicant requests benefits. For example, if the applicant requests benefits on August 10th, the earliest date is May 10. Eligibility is established separately for May 10 through May 31, June 1 through June 30, July 1 through July 31, and August 1 through August 9.

(2) If an applicant requests and is eligible for retroactive QMB DW, the earliest date the applicant may be eligible is three months before the date of request.

(3) If a QMB SMB or QMB-SMF applicant requests and is eligible for retroactive payment of Part B Medicare premiums, the earliest date the applicant may be eligible is three months before the date of request.

(4) If an applicant applying for REFM is eligible for retroactive medical benefits, the earliest the applicant may be eligible is the most recent of the following:

- (a) The date the applicant arrived in the United States; or
- (b) Three months before the date of request.

Stat. Auth.: ORS 409.050, 411.060, 411.404

Stats. Implemented: ORS 409.010, 411.060, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

DIVISION 185

TRUST AND AGENCY (T & A) ACCOUNTS AND CLIENT PAY-IN

461-185-0010

T & A Overview, When to Use

(1) T&A is a system for handling client funds when the Department is responsible for receiving and disbursing these funds. These accounts are set up when the Department is the client's representative payee for SSB, SSI, Veterans, or other benefits;

(2) Additionally, Seniors and People with Disabilities may set up an account when any of the following is true:

- (a) There is no one available to assist the client and the client understands the need for the account;
- (b) The client is not able to manage their income or resources;
- (c) The account balance of a client's nursing facility personal incidental fund is more than \$90.

(3) Do not set up a T&A account for people who are under age 18.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95

461-185-0020

Authorization of T&A

(1) The client, or their guardian or conservator, authorizes establishment of a T&A account on a form prescribed by the Department.

(2) Spouses must each sign the authorization form to have their funds administered in trust.

(3) Clients not able to sign their name may make a mark. Two people must witness the signing and give their addresses.

Stat. Auth.: ORS 409.050, 411.060, 411.070

Stats. Implemented: ORS 409.050, 411.060, 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-185-0030

Interest Paid on T&A Accounts

Interest earned from investment of T&A account monies will be put into the T&A accounts on a quarterly basis. Interest will be reported in accordance with IRS regulations on a Department form.

Stat. Auth.: ORS 409.050, 411.060, 411.070

Stats. Implemented: ORS 409.050, 411.060, 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94

461-185-0050

Client Pay-In System

(1) Except as provided in sections (2) and (3) of this rule, a client who receives home and community-based care (see OAR 461-001-0030) in-home services and has countable income above the payment standard for the benefit group must pay to the Department the lesser of the following amounts as a condition of being eligible for home and community-based care in-home services:

(a) The client's adjusted income (see OAR 461-160-0620).

(b) The actual cost of home and community-based care in-home services.

(2) The service liability of clients in the OSIP-IC and OSIPM-IC programs is calculated in accordance with section (1) of this rule. Clients in the OSIP-IC and OSIPM-IC programs do not pay the Department directly. The IC service payment of these clients will be reduced by the amount of their liability.

(3) A client exempt from payments under OAR 461-160-0610 is exempt from the payment required by this rule.

(4) Each month, the Department will send the client an invoice requesting payment based on the calculation in section (1) of this rule.

(5) Payments must be received by the Department in the month of service.

Stat. Auth.: ORS 411.060, 411.070, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.404

Hist.: AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14

DIVISION 190

EMPLOYMENT PROGRAM COMPONENTS

461-190-0151

Case Planning; JOBS, Pre-TANF, REF, SFPSS, TA-DVS

(1) In the JOBS, Pre-TANF, REF, SFPSS, and TA-DVS programs:

(a) The Department and client develop an individualized case plan that is agreed to by the client and the Department.

(A) The Department uses proven methods for encouraging the full engagement of clients and the development of the case plan. These proven methods include, but are not limited to, strength-based case management and motivational interviewing.

(B) The *case plan* may be modified whenever circumstances change.

(b) The case plan:

(A) Is individualized and developed with the client and in cooperation with appropriate partner agencies or other professionals.

(B) Identifies client goals and *activities* (see OAR 461-001-0025) that will help the client meet those goals.

(i) *Activities* are based on information obtained in screenings and evaluations, and are intended to build on client strengths.

(ii) *Activities* promote both family stability and financial independence.

(iii) *Activities* help reduce or eliminate barriers to self-sufficiency, employment, job retention, wage enhancement, and full participation in the JOBS program.

(iv) For a client who has a *disability* (see OAR 461-001-0000), the goal of the case plan is to promote greater independence. The case plan may include physical and mental health treatment.

(v) The case plan includes agreed upon *support services* (see OAR 461-001-0025) needed to enable the client to successfully complete the case plan.

(vi) The case plan includes identified accommodations or modifications necessary for the client to successfully complete the case plan.

(c) The client must inform the Department of any circumstances that may require a change to the provisions of the case plan.

(d) A client who disagrees with a requirement to comply with any provision of a case plan may seek resolution of the disagreement through the re-engagement process described in OAR 461-190-0231.

(2) In the JOBS program, the *case plan* (see OAR 461-001-0025):

(a) Is complete and binding for all *core activities* (see OAR 461-001-0025) and all *non-core activities* (see 461-001-0025) once it is signed by a representative of the Department, the client is informed of its contents, and the client has been offered a copy of the plan.

(b) Is complete and binding for all non-countable activities when it is signed by a representative of the Department and the client, and the client has been offered a copy of the plan.

Stat. Auth.: ORS 411.060, 418.045, 412.049

Stats. Implemented: ORS 411.060, 418.045, 412.049

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-190-0163

Restrictions on On-the-Job Training, Unpaid Employment, Work Supplementation; JOBS

(1) The Department may not require a client to participate in an activity (see OAR 461-001-0025) of the OJT (see 461-001-0025), *unpaid employment* (see 461-001-0025), or *work supplementation components* (see 461-001-0025) in the following circumstances:

(a) The client would displace a currently employed worker or position or would cause a reduction in regularly scheduled hours, wages or benefits of a current employee.

(b) The assignment would impair an existing contract for services or a collective bargaining agreement.

(c) The employment or assignment occurs at the same time another person is laid off from the same or an equivalent job within the same organizational unit or an employer terminates an employee or reduces its work force by hiring a participant in OJT, unpaid employment, or work supplementation.

(d) The employment or assignment infringes in any way on promotional opportunities of a current employee.

(2) The Department may not require a client to participate in the work supplementation component by filling an established but currently vacant position.

(3) The working conditions for clients participating in the OJT, unpaid employment, and work supplementation components may not violate applicable state and federal health and safety standards or require activities not considered usual and customary in the occupation for which the participant is being trained.

(4) Clients participating in the OJT, unpaid employment, and work supplementation components who are covered by a workers' compensation system are entitled to the same level of benefits under the same conditions as other individuals similarly employed.

(5) Clients in work supplementation not covered by an applicable workers' compensation statute must be provided with equal medical and accident protection for on-site injuries as that required by the state's worker compensation statute for covered employment.

(6) Clients in unpaid employment are covered by the Fair Labor Standards Act (FLSA) (see OAR 461-001-0025) if the worksite is a FLSA subject employer.

Stat. Auth.: ORS 411.060, , 418.040, 418.045, 412.049

Stats. Implemented: ORS 411.060, , 418.040, 418.045, 412.049

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 18-1998, f. & cert. ef. 10-2-98; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-190-0171

Education Requirements for Teen Parents; JOBS

(1) Except as provided in section (2) of this rule, a teen parent (see OAR 461-001-0025) who participates in the JOBS program and does not have a high school diploma or GED must participate in the *basic education component* (see OAR 461-001-0025).

(2) A *teen parent* is excused from the requirements of section (1) of this rule if any of the following subsections apply:

(a) He or she is exempt (see OAR 461-130-0310) from the requirement to participate in the JOBS program 16 weeks after the birth of a child, except that the teen parent may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activities (see OAR 461-001-0000).

(b) He or she is under age 18, has been excused by the local school district from state compulsory school attendance, and meets the following conditions:

(A) The employment goal of the teen parent is an occupation or occupational field that does not require a high school diploma or GED, there is a labor market demand for it, and the goal is appropriate for the client and likely to lead to self-sufficiency; and

(B) The teen parent is participating in the job skills training component (see OAR 461-001-0025) and an education component (see 461-001-0025) designed to result in a literacy level of at least grade 8.9.

(c) He or she is age 18 or 19 and can be assigned to employment training to prepare for occupations or occupational fields for which there is a labor market demand, and either he or she has failed to achieve good or satisfactory progress (see OAR 461-001-0025) in completing his or her educational activities (see 461-001-0025) or educational activities are inappropriate for his or her education and employment goals.

Stat. Auth.: ORS 411.060, 411.070, 418.040, 418.045, 412.049

Stats. Implemented: ORS 411.060, 411.070, 418.040, 418.045, 412.049

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-190-0181

Basic Education for Nonteens; JOBS

(1) Parents age 20 and over in the JOBS Program may be required to participate full-time (as defined by the education provider) in the *basic education component* if their employment goals requires a literacy level of 8.9, unless one of the following is true:

(a) They are exempt from the requirement to participate in the JOBS Program for a reason other than providing care for a child under age 3 months;

(b) They demonstrate a literacy level of at least grade 8.9 through *BASIS testing*;

(c) They have a high school diploma or GED.

(2) Clients with limited English proficiency may be required to participate in English education if their inability to speak, read or write the English language limits their employment opportunities.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 18-1998, f. & cert. ef. 10-2-98

461-190-0197

Microenterprise Component

(1) The microenterprise component is a component in which a TANF client who is self-employed (see OAR 461-145-0910) can meet participation requirements of the JOBS program by working in a microenterprise (see 461-001-0000).

(2) The Department will authorize a client to participate in the microenterprise component if the client is self-employed in a microenterprise and provides the Department with:

(a) A business plan for the microenterprise; and

(b) Approval of the business plan by an expert third party entity such as the United States Small Business Administration, a member program of the Oregon Microenterprise Network, the Service Corps of Retired Executives (SCORE), or an entity approved by the Department.

(3) The business plan required by section (2) of this rule must include provisions for review of the client's progress in the microenterprise by the approving entity.

(4) The Department may require a client to participate in other JOBS activities while participating in the microenterprise component. A client participating in the microenterprise component must:

(a) Participate in the microenterprise component for the number of hours required by the rules of the JOBS program; or

(b) Participate in the microenterprise component and other JOBS activities identified in the case plan for the number of hours required by the case plan.

(5) A client participating in the microenterprise component must provide semiannually to the Department a statement of the client's income prepared by a certified public accountant, book-keeping firm, or other entity approved by the Department according to generally accepted accounting principles and OAR 461-145-0920.

(6) The Department will not authorize JOBS funds to be used for equipment, supplies, wages, or other business expenses that support the microenterprise.

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060 & 412.049

Hist.: SSP 23-2003, f. & cert. ef. 10-1-03; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-190-0199

Parents as Scholars

(1) Notwithstanding any other provision in Chapter 461 of the Oregon Administrative Rules, effective July 1, 2011, participation in Parents as Scholars (PAS) is limited to clients approved for PAS as of June 30, 2011. Any other PAS applicant is not eligible for enrollment in PAS, including a client on the PAS wait list after June 30, 2011. The Department does not process any application for PAS received after June 30, 2011.

(2) PAS is a JOBS program component that assists TANF parents who are or will be undergraduates to begin or continue their education at a two- or four-year educational institution.

(3) The following definitions apply to PAS:

(a) "Educational institution" means any post-secondary educational institution approved or accredited by the Northwest Commission on Colleges and Universities, by its regional equivalent, or by the appropriate official, department, or agency of the state or nation in which the institution is located and that is:

(A) A four-year college or university;

(B) A junior college or community college; or

(C) A technical, professional or career school.

(b) "Participant" refers to a participant in the PAS component of the JOBS program.

(c) "PAS" means the Parents as Scholars component of the JOBS program.

(4) The number of participants in PAS in a calendar year is limited as follows:

(a) The number of participants in PAS in a calendar year may not exceed one percent of the number of households receiving TANF on January 1 of that calendar year.

(b) If one percent of the number of households receiving TANF on January 1 of the current calendar year is less than one

percent of the number of households receiving TANF on January 1 of the previous calendar year, the Department will not fill PAS slots vacated on or after January 1 of the current calendar year until the total number of slots is equal to one percent of the households receiving TANF for the current calendar year.

(5) A PAS participant receives TANF cash assistance as well as necessary support services provided through the JOBS program. JOBS support services:

(a) May not be used to pay for the cost of tuition and fees associated with enrollment by a participant at an educational institution.

(b) Subject to the limitations of OAR 461-190-0211, may be used to pay for books and supplies associated with enrollment by a participant at an educational institution subject to the following provisions:

(A) The books and supplies are required for completion of the participant's coursework at an educational institution;

(B) There is no other funding available to the PAS participant for books and supplies; and

(C) No more than \$100 per academic term or semester may be paid per PAS participant for books and supplies.

(6) Applying for PAS. A parent who is applying for or receiving TANF may apply for PAS by completing and signing the PAS application and submitting it to the Department. The application and other documentation required by this rule must be submitted to Department of Human Services JOBS Unit (PAS), 2nd Floor, 500 Summer Street NE E48, Salem, Oregon 97301.

(7) PAS Selection Process; Wait List.

(a) PAS applications received from PAS applicants will be processed in the order in which the Department receives the applications.

(b) If the maximum number of PAS slots for a calendar year has not been filled, the Department will notify an applicant when he or she has been approved.

(c) When the maximum number of PAS slots for a calendar year has been filled and there is a wait list, the Department will notify an applicant when he or she has been added to the wait list.

(d) Once each year, the Department will contact PAS applicants on the wait list to determine if the PAS applicant's name should be removed from the wait list.

(e) When the maximum number of PAS slots for a calendar year has been filled and there is a wait list and a PAS slot becomes available, the Department will notify the next applicant on the wait list that an opening has become available.

(f) The Department will inform an applicant for PAS who does not qualify or no longer qualifies for placement on the wait list because the applicant becomes ineligible for TANF or no longer meets the requirements of this rule.

(8) Selection Requirements.

(a) A PAS applicant must meet the financial and nonfinancial eligibility requirements for TANF.

(b) A PAS applicant who is not applying for or receiving TANF at the time of selection may not participate in PAS or remain on the wait list.

(c) A PAS applicant must include documentation that the PAS applicant is an undergraduate who has been accepted for full-time attendance into or is enrolled full-time at an educational institution.

(d) A PAS applicant must demonstrate as part of the PAS application that completion of the educational program is likely to result in employment that provides the wages and benefits necessary for the applicant to support the applicant's family without TANF.

(9) Requirements of Participants; Limitations.

(a) A participant must provide documentation to the Department quarterly, or following completion of each academic term at the educational institution, that the participant is making satisfactory academic progress, as defined by the educational institution, toward a degree.

(b) A participant must provide documentation to the Department, prior to the start of each new academic term or semester, that the PAS applicant is an undergraduate who is enrolled full-time at an educational institution.

(c) A participant must attend classes full-time as defined by the educational institution, unless there is good cause (see OAR 461-130-0327) to limit attendance to less than full-time.

(d) Unless there is good cause for not attending year round, a participant must either:

(A) Attend classes year round, including during the summer if classes are offered by the educational institution; or

(B) If not attending classes year round, participate in work experience related to the field of study of the participant when not attending classes. If a work experience related to the participant's field of study is not available, participate in another appropriate work experience.

(e) During the first twelve months of participation in PAS, a participant must record attendance and homework time weekly and must provide this information to the Department no less frequently than monthly.

(f) Except as provided in subsection (g) of this section, a participant must remain eligible for TANF.

(g) If a participant becomes temporarily ineligible for TANF during a period of four or fewer months due to income from a paid work experience, the applicant may retain their PAS slot when school resumes if:

(A) The participant regains TANF eligibility; and

(B) PAS is still an appropriate activity for the participant.

(10) Ending PAS. PAS is ended for a PAS participant when:

(a) The PAS participant completes his or her degree program;

(b) Except as provided in subsection (9)(g) of this rule, the PAS participant becomes ineligible for TANF; or

(c) All of the following are true:

(A) The PAS participant fails to meet one or more of the requirements of subsections (9)(a) through (9)(e) of this rule;

(B) Attempts to re-engage the PAS participant pursuant to OAR 461-190-0231 are unsuccessful; and

(C) There is a determination that the PAS participant does not have good cause (see OAR 461-130-0327) for failure to meet one or more requirements of subsections (9)(a) through (9)(e) of this rule.

Stat. Auth.: ORS 411.060, 411.116, 412.016, 412.049, 412.124

Stats. Implemented: ORS 411.060, 411.070, 411.116, 412.016, 412.017, 412.049, 412.124, HB 2049 (2011)

Hist.: SSP 20-2008(Temp), f. & cert. ef. 9-5-08 thru 3-4-09; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an activity (see OAR 461-001-0025) is available to the following individuals:

(a) An individual who is an adult parent, needy caretaker relative, or teen parent (see OAR 461-001-0000 and 461-001-0025) receiving TANF who is not otherwise exempt (see OAR 461-130-0305) and in accordance with participation requirements in OAR 461-130-0310.

(b) An individual who is an applicant or recipient in the Pre-TANF, Post-TANF, or SFPSS program.

(c) Subject to local services and budget, an individual who is exempt from JOBS requirements as a one-parent household with a dependent child (see OAR 461-001-0000) under six months of age and has approved activities as specified in the individual case plan (see OAR 461-001-0025).

(d) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF federally required participation rates (see OAR 461-001-0025).

(e) An individual who has become over-income for the TANF program due to earnings in an on-the-job training (see OAR 461-

001-0000) activity is eligible to receive support services (see OAR 461-001-0025) for no more than three months, unless circumstances unique to the situation are identified and warrant the Department to approve a limited number of additional months. Eligibility for support services under this subsection is only permitted while the individual continues to participate in the on-the-job training activity.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6) and (7) of this rule, the following activities are available, and include support services payments if needed:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and 461-101-0010) is limited to six months per individual, unless circumstances unique to the employment situation are identified and warrant the Department to approve a limited number of additional months.

(c) Work experience (see OAR 461-001-0025).

(d) Supported work (see OAR 461-001-0025).

(e) High School or GED Completion Attendance (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited family stability activity (see OAR 461-001-0000).

(A) Drug and alcohol services (see OAR 461-001-0025).

(B) Mental health services (see OAR 461-001-0025).

(C) Attending medical appointments or services.

(D) Rehabilitative activities (see OAR 461-001-0025).

(E) Crisis Intervention (see OAR 461-001-0025).

(F) SSI application process.

(h) Vocational training (see OAR 461-001-0025).

(i) Life Skills (see OAR 461-001-0025).

(j) On-the-job training.

(k) Unsubsidized employment (work).

(L) Adult Basic Education (see OAR 461-001-0025).

(m) Job skills training (see OAR 461-001-0025).

(n) Self-initiated training (see OAR 461-001-0025).

(3) The following activities do not include support services payments:

(a) Domestic Violence Intervention.

(b) Family Support & Connections.

(c) Microenterprise (see OAR 461-001-0025).

(d) Post-TANF.

(e) Program entry (see OAR 461-001-0025).

(4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, Not Job Ready, or a teen parent.

(a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

(A) Prior stable work history, either paid or unpaid.

(B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).

(C) Reliable or available transportation.

(D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

(A) Limited or no work history, either paid or unpaid.

(B) Reliable or available transportation.

(C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the indi-

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vidual is not addressing the barriers. For example, the individual has one or more of the following:

(A) Lack of stable housing that is preventing participation in an activity or employment.

(B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

(D) Outstanding legal issues that would impact or prevent employment.

(E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(F) Family stability issues that need to be addressed.

(5) In approving JOBS program support services payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(6) Payments for support services are only provided when:

(a) Necessary to participate in activities in a signed case plan;

(b) Authorized in advance; and

(c) All other provisions of this rule are met.

(7) Payments for support services are subject to the following limitations:

(a) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable Job Ready or Near Job Ready individuals or teen parents to participate in an approved JOBS program activity specified in the individual's case plan, including a Not Job Ready individual approved by the district to complete a family stability activity. If authorized, payment for child care is:

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(b) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity or a Not Job Ready individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for public transportation is a priority over payment for a privately owned vehicle.

(B) Payment for fuel costs for a privately-owned vehicle is only provided if the client or individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(c) Housing and Utilities. Payments for housing and utilities are not allowed.

(d) Other Payments. When the need is identified by the district and no other sources are available, the Department may provide other payments needed:

(A) To look for work.

(B) To accept a job offer.

(C) To attain a high school diploma or GED.

(D) For books and supplies for a participant to complete a district-approved vocational training.

(E) Other payments with manager approval that are not otherwise restricted by rule.

(e) None of the following payments are allowed:

(A) Non-essential items.

(B) Television, cable, and internet.

(C) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.

(D) Purchase of a car, recreational vehicle, or motor home.

(E) Support services for exempt individuals.

(F) Pet-related costs.

(G) ERDC co-payments.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part a request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual under section (1) of this rule, a Not Job Ready individual in a family stability activity, or a teen parent.

Stat. Auth.:ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124, 2013 Or. Laws 722
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.121, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124, 2013 Or. Laws 722
Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12; SSP 12-2012(Temp), f. & cert. ef. 4-6-12 thru 9-30-12; SSP 18-2012(Temp), f. & cert. ef. 5-23-12 thru 9-30-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 34-2012(Temp), f. & cert. ef. 11-6-12 thru 5-5-13; SSP 38-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 5-5-13; SSP 2-2013(Temp), f. & cert. ef. 1-23-13 thru 5-5-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 6-2014(Temp), f. & cert. ef. 3-5-14 thru 9-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 3-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 18-2015(Temp), f. 6-30-15, cert. ef. 7-1-15 thru 12-27-15

461-190-0231

Re-engagement; JOBS, Pre-TANF, REF, SFPSS, TA-DVS

In the JOBS, Pre-TANF, REF, SFPSS, and TA-DVS programs:

(1) When aspects of the case plan have not been met or are in dispute, the re-engagement process provides an opportunity for the client and the Department to:

(a) Review and re-evaluate the case plan and other information gathered related to the client's strengths and barriers;

(b) Identify participation expectations, concerns related to participation, and completion of activities in the case plan;

(c) Consider whether the case plan is still appropriate;

(d) Develop options that support full participation; and

(e) Revise the case plan if appropriate.

(2) The re-engagement process is intended to assist the Department in identifying whether the client is unable to fully participate or whether the client is or has been willfully non-compliant.

(a) In the JOBS, Pre-TANF, REF, and SFPSS programs, if screenings for physical or mental health needs, substance abuse, domestic violence (see OAR 461-001-0000), or learning needs have not been completed, the re-engagement process requires an

additional opportunity to initiate those screenings for potential barriers to participation not previously identified.

(b) Circumstances that require a determination of whether good cause (see OAR 461-130-0327) exists include disagreements about the case plan, irregular attendance at activities, missed appointments, failure to participate in a component of the case plan, and (in the JOBS program) refusal to accept or maintain employment.

(c) In the TA-DVS program, there are no participation requirements. The re-engagement process is intended to provide an opportunity to address problems with the case plan (see OAR 461-135-1230) and an opportunity to modify the case plan.

(3) In the JOBS program, the re-engagement process must include an assessment of the risk of harm posed to the children in the filing group by the reduction in aid payments and taking steps to ameliorate the risk.

(4) The client, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required activity. The Department may not disqualify clients based on their failure to participate in the re-engagement process.

(5) The client or Department may invite partner agencies, Department contractors, persons currently working with the client, or other individuals who have information relevant to the re-engagement process to any appointments or meetings scheduled as part of the process.

(6) The re-engagement process ends when any of the following subsections applies:

(a) The Department and the client agree to a modified case plan.

(b) Efforts to re-engage are unsuccessful.

(c) In the JOBS, Pre-TANF, and REF programs:

(A) The Department has determined the client has met federally required participation rates (see OAR 461-001-0025);

(B) The client clearly indicates an intent not to participate in the re-engagement process;

(C) The client is willfully non-compliant and has the ability to be fully engaged;

(D) The client has no barriers or refuses to take appropriate steps to address identified barriers to participation in the program; or

(E) A decision is made by the Department that a client did not have good cause for not complying with a requirement of the JOBS program, and the client is able but unwilling to address the issue through activities that address barriers or through case plan modifications.

(d) In the SFPSS program, after a review team consisting of SFPSS program staff including the case manager, disability analyst, and appropriate medical professional determine the client does not have good cause for non-cooperation and no accommodations or modifications can be made to support the client being re-engaged.

(7) The re-engagement process must end unsuccessfully before the Department begins the process of disqualifying a client for a failure to comply with a requirement of the JOBS program.

(8) In the SFPSS program, when the re-engagement process ends unsuccessfully, a client removed from the program is returned to the TANF program.

(9) For a participant in the Parents as Scholars (PAS) component of the JOBS program, when re-engagement ends unsuccessfully, PAS is ended pursuant to OAR 461-190-0199.

Stat. Auth.: ORS 411.060, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.117, 412.009, 412.014, 412.049

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-190-0241

Transition Services; JOBS

(1) A client who becomes ineligible for the Pre-TANF or TANF programs because of an increase in earned income is

eligible for transition benefits and services for 12 months upon meeting the criteria in OAR 461-190-0211 for receiving support services (see 461-001-0025) in the JOBS program. The total cost of JOBS support service payments may not exceed \$1,000 for the duration of the 12-month period. For clients whose eligibility ends for reasons other than income from new employment, the benefits and services are limited to completing any JOBS activity (see 461-001-0025) in progress at the time program eligibility ends.

(2) The transition period begins on the date determined by the following:

(a) For clients participating in an OJT activity (see OAR 461-001-0025), the transition period begins:

(A) When TANF benefits end because of earned income, if there are three or fewer months left in the OJT contract.

(B) Three calendar months before the end of the OJT contract, if TANF benefits end because of the level of earned income when more than three months remain in the contract.

(b) For clients participating in a work supplementation activity (see OAR 461-001-0025), the transition period begins when the wage subsidy (grant diversion) to the employer ends.

(c) For all other clients, the transition period begins when Pre-TANF or TANF program benefits end.

Stat. Auth.: ORS 411.060, 412.049

Stats. Implemented: ORS 411.060, 412.049

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 23-1991(Temp), f. 10-31-91, cert. ef. 11-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 25-1998, f. 12-28-95, cert. ef. 1-1-98; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08

461-190-0310

Limits to OFFSET Components and Activities

In the SNAP OFFSET program:

(1) The case plan (see OAR 461-001-0020) may not require more than 120 hours of activities each month.

(2) The client may not be required to participate in only job search (see OAR 461-001-0020) activities for more than eight weeks a year.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-190-0360

Special Payments; OFFSET

In the OFFSET program, the Department may authorize payment of not more than \$80 over the eight week participation period for transportation and other costs identified in the client's case plan (see OAR 461-001-0020). If public transportation is available, the Department may issue to the client bus passes or tickets sufficient to enable the client to participate in the OFFSET program activities identified in the case plan. If necessary, a client's case plan is adjusted to ensure that OFFSET program participation requirements may be fulfilled at no cost to the client.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09

461-190-0401

Applicability

The *JOBS Plus program* is a component of the JOBS program and is subject to the provisions of ORS Chapter 411 and the following rules (OAR 461-190-0401 to 461-190-0426). Clients who participate in the JOBS Plus program (participants) become employed

and receive wages rather than cash benefits from the TANF program, SNAP benefits, and unemployment insurance benefits.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98

461-190-0406

Eligibility of Clients

(1) Any client not excluded from participation by law, if eligible for the TANF program, may volunteer to participate in the *JOBS Plus* program. If there are no volunteers available to participate, the Department may select participants from among eligible clients. Recipients of SSI and teenage parents who remain in high school, if they are making progress toward receiving a diploma, are exempt from participation in the *JOBS Plus* program.

(2) Clients remain eligible to participate as long as they would, except for participating in the *JOBS Plus* program, be eligible for TANF. Eligibility of a participant working under a *JOBS Plus* assignment is not affected by changes in deprivation (see OAR 461-125-0010).

(3) The benefits of participants remain suspended until the first day of the month following the month in which they last perform work under a *JOBS Plus* agreement. TANF clients cannot receive TANF cash benefits and a *JOBS Plus* supplement for the same month.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98; SSP 7-2005, f. & cert. ef. 7-1-05

461-190-0407

Clients' Individual Education Accounts

After a client has participated in the *JOBS Plus* program for 30 days, the Department withholds one dollar for each hour the client works for the *JOBS Plus* employer to be used for the client's individual education account. To be qualified for use of his or her account, an *eligible participant* (see OAR 575-090-0010) must make a written request to the Department for access to the account. Upon receipt of such a request, the Department will transfer the account to the Commission. The client must apply with the Oregon Student Assistance Commission to access the account.

Stat. Auth.: ORS 348.520, 409.050, 411.060, 411.070, 411.894, 412.006

Stats. Implemented: ORS 348.520, 348.841, 409.050, 411.060, 411.070, 411.894, 412.006

Hist.: AFS 14-1999, f. & cert. ef. 11-1-99

461-190-0411

Participation of Employers

(1) The Department assigns participants to employers who enter into work-site agreements with the Department. The Department will assign participants to public employers only when there is no appropriate vacant position with a private employer.

(2) The Department will not assign participants to employers who have demonstrated a pattern of unreasonably ending a client's *JOBS Plus* participation prior to completion of training or who have demonstrated an unwillingness to provide adequate training or comply with the work-site agreement.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.816, 412.006

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98

461-190-0416

Supplemental Payments; JOBS

In the *JOBS Plus* program (see OAR 461-001-0025):

(1) If the net monthly full-time wage paid to a participant is less than the amount of the TANF program and the SNAP program benefits the participant would otherwise receive, the Department will determine and pay to the participant a supplemental payment as provided in section (3) or (6) of this rule.

(2) Income Calculations prior to January 1, 2011:

(a) *JOBS Plus* income for sections (2) and (3) of this rule is calculated retrospectively as follows:

(A) For the full benefit equivalency income test, the applicable hourly wage is multiplied by the hours that were available for work, specifically the hours for which the participant was paid,

including sick leave used and hours the participant was engaged in job search (see OAR 461-001-0025), and hours the participant missed work without being excused by the employer. From that product, a \$90 standard deduction and the amount of garnishments withheld are subtracted. To the remainder is added any child support received by the participant and \$102 to account for the participant's potential earned income credit. If the participant missed work referred to in this paragraph due to good cause (see OAR 461-130-0327), the hours are excluded from the calculation.

(B) For the minimum benefit equivalency income test, the applicable hourly wage is multiplied by the hours for which the participant was paid. From that product, a \$90 standard deduction and the amount of garnishments withheld are subtracted. To the remainder is added any child support received by the participant and \$102 to account for the participant's potential earned income credit.

(b) Full benefit equivalency income is the total of the TANF program and SNAP program benefits as determined for the need group (see OAR 461-110-0630).

(c) Minimum benefit equivalency income is determined by deducting from the full benefit equivalency income the difference between the TANF program payment standard under OAR 461-155-0030 for the need group with the participant included and the TANF program payment standard for the need group without the participant included.

(3) Wage supplements prior to January 1, 2011: A participant is entitled to a wage supplement payment for any month in which *JOBS Plus* income is exceeded by either the full benefit equivalency income or the minimum benefit equivalency income. The supplement payment amount is determined by subtracting the *JOBS Plus* income calculated in accordance with paragraph (2)(a)(A) of this rule from the full benefit equivalency income and by subtracting the *JOBS Plus* income calculated in accordance with paragraph (2)(a)(B) of this rule from the minimum benefit equivalency income. The larger remainder, if greater than zero, is the wage supplement payment amount.

(4) SNAP program supplemental payment prior to January 1, 2011:

(a) To ensure that a SNAP program client does not incur a net loss of income because of her or his participation in the *JOBS Plus* program, the Department provides a supplemental payment equal to the amount by which the participant's *JOBS Plus* income is less than the Thrifty Food Stamp Plan benefit standard for the participant's need group.

(b) The *JOBS Plus* income for this section is calculated prospectively by subtracting \$90 from the sum of the gross *JOBS Plus* wages the participant already has received for the month and any that the participant reasonably can expect to receive during the month, and adding the remainder to any EIC payment the participant received or anticipates receiving during the month and any other prospective income, and then subtracting the amount scheduled to be garnished during the month.

(5) Effective January 1, 2011:

(a) *JOBS Plus* income for this section and section (6) of this rule is calculated retrospectively as follows:

(A) For the full benefit equivalency income test, the applicable hourly wage is multiplied by the hours that were available for work, specifically the hours for which the participant was paid, including hours of sick leave used, hours the participant was engaged in job search (see OAR 461-001-0025), and hours the participant missed work without being excused by the employer. From that product, a \$90 standard deduction and the amount of any garnishments withheld are subtracted. To the remainder is added any child support received by the participant. If the participant missed work referred to in this paragraph due to good cause (see OAR 461-130-0327), the hours are excluded from the calculation.

(B) For the minimum benefit equivalency income test, the applicable hourly wage is multiplied by the hours for which the participant was paid. From that product, a \$90 standard deduction and the amount of garnishments withheld are subtracted. To the remainder is added any child support received by the participant.

(b) Full benefit equivalency income is the total of the TANF program benefits and SNAP program benefits as determined for the participant's need group (see OAR 461-110-0630).

(c) Minimum benefit equivalency income is determined by deducting from the full benefit equivalency income the difference between the TANF payment standard under OAR 461-155-0030 for the need group with the participant included and the TANF payment standard for the need group without the participant included.

(6) Wage supplements effective January 1, 2011: A participant is entitled to a wage supplement payment for any month in which JOBS Plus income is exceeded by either the full benefit equivalency income or the minimum benefit equivalency income. The wage supplement payment amount is determined by subtracting the JOBS Plus income calculated in accordance with paragraph (5)(a)(A) of this rule from the full benefit equivalency income and by subtracting the JOBS Plus income calculated in accordance with paragraph (5)(a)(B) of this rule from the minimum benefit equivalency income. The larger remainder, if greater than zero, is the wage supplement payment amount.

(7) SNAP program supplemental payment effective January 1, 2011:

(a) To ensure that a SNAP program client does not incur a net loss of income because of their participation in the JOBS Plus program, the Department provides a supplemental payment equal to the amount by which the JOBS Plus income of the participant is less than the Thrifty Food Stamp Plan benefit standard for the need group of the participant.

(b) The JOBS Plus income for this section is calculated prospectively by subtracting \$90 from the sum of the gross JOBS Plus wages the participant has already received for the month and any the participant can reasonably expect to receive during the month plus any other prospective income, and then subtracting the amount scheduled to be garnished during the month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.408, 411.816, 411.877, 411.892, 412.006, 412.009, 412.014, 412.049, 412.124

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.400, 411.404, 411.408, 411.816, 411.877, 411.892, 412.006, 412.009, 412.014, 412.049, 412.124

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98; SSP 6-2011(Temp), f. & cert. ef. 2-14-11 thru 8-13-11; SSP 17-2011, f. & cert. ef. 7-1-11

461-190-0421

Increased Tax Liability

(1) To ensure that the diversion of SNAP program benefits to JOBS Plus wages does not cause a participant to incur a loss of income as a result of increased tax liability, the Division will make a yearly payment to compensate the participant if the participant's tax liability exceeds the liability the client would have incurred had the amount of SNAP benefits not been included in the JOBS Plus wages.

(2) To receive the payment, the client must do the following:

(a) Request the payment from the Division by June 30 of the year following the tax year.

(b) Submit the federal tax forms (including the EIC schedule) and state tax forms that were submitted with respect to the prior year together with the same forms completed with income reduced by the amount of SNAP benefits used in calculating the *full benefit equivalency income* under OAR 461-190-0416.

(3) The payment described in this rule is excluded income in the SNAP program.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98; AFS 9-1999, f. & cert. ef. 7-1-99

461-190-0426

Termination of Work-Site Agreement

(1) A JOBS Plus work-site agreement may be terminated by a participant, upon request to the Department, after the client has worked for two weeks for the employer. For the third and any subsequent termination requested by the client, the client is subject to disqualification for failure to comply with the requirements of the JOBS program as provided in OAR 461-130-0325(1)(b).

(2) The Department will terminate a JOBS Plus work-site agreement if the agreement is violated by the employer or the staffing company and at the end of the month prior to the month in which a member of the eligibility group begins serving a disqualification in the SNAP program.

(3) To be eligible to receive JOBS Plus payments, an employer must:

(a) Comply with its JOBS Plus work site agreement; and

(b) Make accurate statements on its voucher submissions to the Department.

(4) An employer may not accept or retain a Department payment made on the basis of an inaccurate voucher submission, even if the inaccuracy was unintentional.

(5) An employer may not accept or retain a Department payment for an individual who is no longer a JOBS Plus program participant, when the employer has notified the Department that the individual is no longer a JOBS Plus program participant.

(6) An employer may not accept or retain a Department payment for an individual who is no longer a JOBS Plus program participant, when the Department has notified the employer that the individual is no longer a JOBS Plus program participant.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 18-1998, f. & cert. ef. 10-2-98; SSP 8-2008, f. & cert. ef. 4-1-08

DIVISION 191

EMERGENCY FOOD ASSISTANCE PROGRAM

461-191-0001

Purpose and Objectives

OAR chapter 461, division 191, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically ORS 458.525 to 458.530, which designates Oregon Housing and Community Services Department as the lead agency to coordinate state efforts in meeting the problem of hunger that operates through a network of local service-provider agencies. The department has designated the Oregon Food Bank as the agency responsible for administering the Emergency Food Assistance Program in Oregon within OAR chapter 461, division 191. The program's objective is to provide lower-income households with food for home and congregate meal use. The Department believes that receiving USDA foods will not create any additional barriers between clients and their need for food than is stated in statute.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0001, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0005

Definitions

All terms used in OAR chapter 461, division 191, are defined in the Act, and in 813-005-0005. As used in OAR chapter 461, division 191, unless otherwise indicated by the context:

(1) "Eligible services" means services provided in accordance with the rules and regulations governing the program.

(2) "Low income household" means a household with an income at or below 185 percent of the federal poverty line.

(3) "Program" means the Emergency Food Assistance Program authorized by public law 98-8 and as extended by public law 98-92.

(4) "Recipient agency means any public or private, nonprofit agency that has subcontracted with the Oregon Food Bank to relieve situations of hunger through distribution of USDA foods to local designated food assistance programs such as congregate meal sites, temporary shelters and emergency food pantries.

(5) "Oregon Food Bank" or "OFB" means the private, nonprofit organization designated by the department to coordinate the distribution of USDA foods in Oregon.

(6) “Storage and distribution costs” means direct costs incurred by the department, OFB and/or recipient agency for the operation of the program, including but not limited to, intrastate storage and distribution of USDA foods.

(7) “USDA foods” means commodities provided to low income households under the program.

(8) “USDA” means the United States Department of Agriculture.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0000; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; Renumbered from 813-220-0000; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0005, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0010

Administration

(1) The department has, through the master grant agreement, designated the OFB, a nonprofit corporation organized under ORS chapter 65, as the program’s responsible agency to distribute USDA foods statewide.

(2) OFB may select and subcontract with recipient agencies to carry out program activities at the local level.

(3) The reimbursement of federal funds shall be paid by the department to the OFB. OFB in consultation with the Department will calculate the proportionate share of the moneys received from the department as reimbursement for program storage and distribution costs.

(4) OFB and their recipient agencies shall comply with all applicable state and federal rules and regulations.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0005; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0010, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0015

Requirements Imposed on OFB and Recipient Agencies

OFB and their recipient agencies are the responsible agencies designated for the distribution of USDA foods and allocation of funds. Prior to providing services, OFB and the recipient agencies will have entered into an agreement for such distribution and receipt of program USDA foods. Specific terms and conditions for doing so include:

(1) Each distribution site must collect and maintain records for each household receiving the Emergency Food Assistance Program (TEFAP) USDA foods for home consumption. TEFAP records should contain:

(a) The name of the household member receiving USDA foods,

(b) The address of the household (to the extent practicable, homeless persons, or people who have just arrived in the area, may not be able to provide an address),

(c) The number of persons in the household, and

(d) The basis for determining that the household is eligible to receive USDA foods for home consumption.

(A) No distribution site will collect social security numbers for households applying for TEFAP.

(B) No supporting documentation is required for an income eligibility determination for TEFAP.

(2) All records must be retained for a period of three (3) years from the close of the federal fiscal year to which they pertain, or longer if related to an audit or investigation in progress. Records must be reasonably accessible at all time for use during management evaluation reviews, audits or investigations. OFB and their recipient agencies shall maintain records as required by federal and state rules in accordance with federal regulations 7 CFR 251.10.

(3) OFB and their recipient agencies shall be responsible for the loss of USDA foods:

(a) Loss of USDA foods from improper distribution or use or failure to provide proper storage, care, or handling.

(b) Recipient agencies will need to immediately submit a claim to OFB and the department if the loss of the USDA foods value exceeds federal regulations.

(4) Under no circumstances shall program recipients be required to make any payments in money, materials or services in connection with participation in this program.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0015, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0020

Client Eligibility

(1) USDA foods shall be made available to low income households. Indication of participation in such programs as the Supplemental Nutrition Assistance program, Temporary Assistance to Needy Families, SSI, State General Assistance, Low-Income Home Energy Assistance and the Oregon Supplemental Income Program shall establish a household’s eligibility under the program. No letter or other verifying document is required.

(2) Households may establish their eligibility to participate in the program through a self-declaration of income at or below 185 percent of the federal poverty line.

(3) Eligibility determination is made by specific eligibility screening guidelines and shall be uniform statewide. The Department does not require any eligibility requirements other than what is required within the federal guidelines for 7 CFR 251.5. The criteria must be:

(a) Income for households meets the low-income poverty guidelines set forth by the income guidelines for the current year. Eligible households in need of food assistance because of inadequate household income may receive TEFAP USDA foods by signing a statement that declares that their income is at or below 185% of the federal poverty level.

(b) Household must reside in the geographic location served by the distribution site at the time of applying for assistance, but length of residency shall not be used as an eligibility criterion. Households should not be denied service for the reason that they are in transit from one locality to another.

(4) Each distribution site must ensure households demonstrate eligibility as described in section (3) or by self-declaration.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0010; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0020, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0030

Allowable Services

(1) OFB and their recipient agencies shall distribute USDA foods under the program to low income households through emergency food box programs, congregate meal sites, temporary shelters, and emergency food pantries.

(2) OFB and their recipient agencies may conduct outreach to under-served areas so that emergency food recipients can obtain needed nutrition education and other support services.

(3) Recipient agencies may publicize the availability of USDA Foods and distribute those USDA foods in their respective service areas in a manner that a maximum number of potential eligible households are reached.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0015; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f.

Chapter 461 Department of Human Services, Self-Sufficiency Programs

& cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0030, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0050

Fiscal Controls

(1) OFB and their recipient agencies will use funds made available under the federal guidelines in 7 CFR 251.8 for direct expenses associated with the distribution of USDA foods and foods secured from other sources to the extent that the foods are ultimately distributed by eligible recipient agencies. OFB will furnish reports as required by OMB Circular A-133 to provide these assurances.

(2) Internal controls including, but not limited to, the use of vouchers and receipts to substantiate all expenditures will be maintained by the OFB and recipient agencies. The Department will conduct monitoring of expenses and the accounting system on an annual basis.

(3) The OFB shall provide the department with an annual audit of program and fiscal transactions within nine (9) months after the close of the fiscal audit period in accordance with OMB Circular A-133.

(4) Records of program activities and fiscal transactions shall be maintained by the OFB and their recipient agencies for a period of three (3) years from the close of the federal fiscal year to which they pertain. These records shall be made available to federal, state and OFB monitoring staff upon request.

(5) The OFB and their recipient agencies shall insure that proper records are kept at all distribution sites.

(6) Fiscal reports and program reports, audit requirements, as well as storage and distribution costs for the month shall be maintained by the OFB.

(7) Each recipient agency shall provide monthly reports to the OFB in a format prescribed by the OFB and the department.

(8) Allowable administrative cost may be used to pay direct expenses associated with the distribution of USDA foods and foods secured from other sources. Direct expenses include the following:

(a) Intrastate and interstate transport, storing, handling, repackaging, processing, and distribution of foods.

(b) Costs associated with determination of eligibility, verification, and documentation.

(c) Costs of providing information to persons receiving USDA foods concerning the appropriate storage and preparation of such foods.

(d) Costs involved in publishing announcements of times and locations of distribution, and

(e) Costs of recordkeeping, auditing, and other administrative procedures required for program participation.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0025; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0050, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0060

Monitoring

(1) The department will conduct reviews, audits and other compliance monitoring as it deems appropriate to verify compliance with program requirements. OFB and recipient agencies will cooperate fully with the department in its compliance monitoring.

(2) OFB shall require by contract and monitor their recipient agencies' compliance with all program requirements including, but not limited to, eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and recordkeeping requirements and civil rights compliance..

(3) If the department determines that OFB or their recipient agencies are not in compliance with applicable state or federal regulations, the department shall, within 30 working days of the close of the on-site evaluation, send OFB a corrective action notice that shall include at a minimum:

(a) A description of the identified deficiency;

(b) The possible causes of the deficiency;

(c) The time frame within which that corrective action must be taken; and

(d) Any requirements for documenting corrective action taken.

(4) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with OFB and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of OFB or any of its recipient agencies is deficient in any manner, including with respect to program requirements.

(5) The department will provide adequate notice and opportunity for an appeal prior to a remedial action that terminates organizational eligibility for program funding for cause.

(6) Appeals will be addressed to the assistant director or their designee whose decision may be further appealed to the department director.

(7) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0030; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0060, SSP 30-2015, f. & cert. ef. 10-9-15

DIVISION 192

OREGON HUNGER RESPONSE FUND

461-192-0000

Purpose and Objectives

(1) OAR chapter 461, division 192 establishes and implements the Oregon Hunger Response Fund, which is funded by General Fund moneys and carries out the Department's responsibility as the lead public body in administering the state policy on hunger under ORS 458.525 to 458.545. The Oregon Hunger Response Fund is the means by which the Department allocates funds for the statewide network of food banks and emergency food programs to acquire food and new food sources, build network capacities and link emergency food clients to other services.

(2) The Oregon Food Bank, a nonprofit corporation organized under ORS Chapter 65, is the agency designated by the Department to coordinate distribution of food and funds in Oregon under the Oregon Hunger Response Fund. Under the program, the food is distributed through the recipient agencies to low income households, which are those households with an income that does not exceed 185 percent of the federal poverty guideline. A portion of the funds are distributed to recipient agencies.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0000, SSP 30-2015, f. & cert. ef. 10-9-15

461-192-0020

Administration

(1) The Oregon Food Bank may select and subcontract with recipient agencies to carry out activities of the Oregon Hunger

Response Fund at the local level. A recipient agency is a regional food bank or other local public agency or private nonprofit agency that under the subcontracting agreement undertakes to relieve situations of emergency and distress by enabling the provision of food to other local nonprofit agencies for distribution to low income households.

(2) A recipient agency may provide Oregon Hunger Response Fund program services only if the agency has first entered into a subcontracting agreement with the Oregon Food Bank to serve as a recipient agency. The agreement must at least include provisions regarding the grant amount, conditions, effective date, terms of the contract, eligible services, fiscal and program report requirements, and audit requirements.

(3) A recipient agency may recommend guidelines to the Oregon Food Bank for the uses and disbursement of program funds.

(4) The Oregon Food Bank may use program funds to supplement but not supplant existing funds used in supporting the work of the recipient.

(5) Neither the Oregon Food Bank nor a recipient agency may require a program recipient to make any payments in money, materials or services for, or in connection with, the receipt of emergency food.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0020, SSP 30-2015, f. & cert. ef. 10-9-15

461-192-0030

Eligible Activities

(1) The Oregon Food Bank and recipient agencies may use funds furnished through the Oregon Hunger Response Fund for:

(a) Capacity building activities and equipment purchases to strengthen or expand the infrastructure of recipient agencies to facilitate expansion of the food supply, including the transportation of commodities;

(b) Acquisition of food in bulk form and the repackaging and distribution of this food for household and congregate meal site use; and

(c) Linkage grants to recipient agencies for outreach to low income populations and under-served areas so that emergency food recipients can obtain nutrition education and other support services.

(2) The Oregon Food Bank and recipient agencies may use program funds to pay for reasonable administrative costs of the program.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0030, SSP 30-2015, f. & cert. ef. 10-9-15

461-192-0040

Fiscal Control and Reporting Requirements

(1) The Oregon Food Bank and each recipient agency under the Oregon Hunger Response Fund:

(a) Shall maintain records that document the use of program funds for linkage and capacity building activities and the receipt and distribution of commodities purchased; and

(b) Shall maintain records of program activities and fiscal transactions for a period of three years and shall make the records available to the Department upon request.

(2) The Oregon Food Bank shall provide the Department:

(a) An annual audit of program activities and fiscal transactions within nine months following the end of the fiscal audit period; and

(b) A year-end report of linkage and capacity projects carried out by each recipient agency compiled from recipient agency annual reports; and

(c) An annual report regarding the type and amount of food acquired, purchased and repackaged by the Oregon Food Bank using the Oregon Hunger Response Fund.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0040, SSP 30-2015, f. & cert. ef. 10-9-15

DIVISION 193

REFUGEE PROGRAMS

461-193-0000

Client Rights; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs, a client has, in addition to the rights under OAR 461-105-0010, the rights described in this rule. The project worker must explain these rights to the client both orally and in writing. A client has the right to:

(1) Information about services administered under the program.

(2) Receive a decision on eligibility promptly and no later than the tenth calendar day from the intake date.

(3) Refuse social services unless the service is court ordered or related to an employment plan under OAR 461-193-0042.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 5-2010, f. & cert. ef. 4-1-10

461-193-0010

Client Responsibilities; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the NAES and RCSP programs, to be eligible for benefits a client and a client's spouse residing in the same household must do all of the following:

- (1) Provide true, complete, and accurate information required to determine eligibility and verify that information, to the extent permitted by the client's physical and mental condition, or authorize the Resettlement Agency to obtain verification.
- (2) Comply with the eligibility requirements of the project.
- (3) Report within ten working days any changes that could affect eligibility for benefits (see OAR 461-170-0011).
- (4) Repay any overpayment of cash assistance benefits.
- (5) Accept social services that are court ordered or related to a case plan.
- (6) Cooperate during a case review by providing the requested information and verification.
- (7) Complete the application process or inform the Resettlement Agency of the decision to withdraw the application for program benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0031

Eligibility Requirements; Refugee Case Services Project (RCSP)

In the RCSP program, to be eligible an applicant must meet the requirements of sections (1) to (6) of this rule, and section (7) if section (7) applies:

- (1) Meet all REF or TANF program eligibility (see OAR 461-001-0000) requirements.
- (2) Meet the alien status requirements under OAR 461-120-0125.
- (3) Reside in Clackamas, Multnomah, or Washington County.
- (4) Have resided in the U.S. for eight months or less. The first month is, for an individual meeting the alien status requirements of OAR 461-120-0125:
 - (a) Subsections (8)(a), (c), (d), or (e), the month the individual entered the United States.
 - (b) Subsections (8)(b), (f), or (g), the month the individual was granted the individual's immigration status.
 - (c) Subsection (8)(h):
 - (A) If the individual entered the U.S. with special immigrant status, the month the individual entered the United States.
 - (B) If the individual is granted special immigrant status after entering the U.S., the month in which the special immigrant status was granted.
 - (d) Each month in the U.S. is counted as a whole month; there is no prorating of any month.
 - (5) Be 64 years old or younger.
 - (6) Not be enrolled as a full-time student or intending to enroll as a full-time student within six months of RCSP program intake.
 - (7) For a newborn, a parent (see OAR 461-001-0000) must provide verification of the child's birth, including the date of birth. The newborn child's U.S. arrival date and eligibility period are the same as those for the child's mother.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006 & 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.116, 412.006 & 412.049

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15

461-193-0042

Refugee Project Employment Requirements and Employment Plan; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the RCSP program:

- (1) Except for a client meeting OAR 461-193-0240, each adult client must participate in the NAES program.
- (2) Each NAES program client is required to have an employment plan and must be actively engaged in NAES program employment activities as specified in the individual's employment plan.
- (3) The job developer and client develop an individualized employment plan agreed to by the client and the job developer.
 - (a) The job developer uses proven methods for encouraging the full engagement of the client and the development of the employment plan. These proven methods include, but are not limited to, strength-based case management and motivational interviewing.
 - (b) The employment plan may be modified whenever circumstances change.
- (4) The employment plan:
 - (a) Is individualized and developed with the client and in cooperation with appropriate partner agencies or other professionals.
 - (b) Identifies client goals and activities to help the client meet those goals.

(A) Activities promote both family stability and financial independence.

(B) Activities help reduce or eliminate barriers to self-sufficiency, employment, job retention, wage enhancement, and full participation in the NAES program.

(C) For a client with a *disability* (see OAR 461-001-0000), the goal of the employment plan is to promote greater independence. The employment plan may include physical and mental health treatment.

(D) The employment plan includes agreed upon support services needed to enable the client to successfully complete the plan.

(E) The employment plan includes identified accommodations or modifications necessary for the client to successfully complete the employment plan.

(F) Activities are based on information obtained in screenings and evaluations, and are intended to build on client strengths.

(c) A client must inform the job developer of any circumstance that may require a change to the provisions of the employment plan.

(d) A client who disagrees with any provision of an employment plan may seek resolution of the disagreement through the re-engagement process (see OAR 461-193-0960).

(5) The employment plan is complete and binding when the client is informed of its contents, it is signed by the job developer and client, and the client has been offered a copy of the plan.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 5-2010, f. & cert. ef. 4-1-10

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 5-2010, f. & cert. ef. 4-1-10

461-193-0130

Definitions; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

The following definitions apply to rules about the NAES and RCSP programs in Chapter 461:

(1) "Asylee" means a refugee granted asylum under Section 208 of the Immigration and Nationality Act. Most asylees are granted asylum after arriving in the United States. Others are admitted to the United States from another country so that they can join a family member who has already received asylum.

(2) "Case head" means the case member who is responsible for providing information necessary to determine eligibility and calculate benefits, and report income. The case head may be either adult in the case.

(3) “Emancipated youth” means a child determined to be a single case by the U.S. Citizenship and Immigration Services or who has been emancipated legally.

(4) “Family reunification case” means a newly arrived refugee joining a nuclear family member already residing in the United States.

(5) “NAES” means New Arrival Employment Services, the employment component for clients in the RCSP program.

(6) “New arrival” means a refugee who originally resettled in Oregon.

(7) “RCSP” means Refugee Case Services Project, a partnership operated through a contract between the Department’s Refugee program and a voluntary agency that resettles newly arrived refugees, to provide case management of cash assistance to a refugee settling in Multnomah, Clackamas, or Washington County.

(8) “Secondary migrant” means a refugee who originally resettled in another state, and was part of another state’s Department of State Reception and Placement counts, who has since moved to Oregon.

Stat. Auth.: ORS 411.060, 411.116

Stats. Implemented: ORS 411.060, 411.070, 411.135, 412.006, 412.049, 414.025

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 6-1997, f. 5-28-97, cert. ef. 6-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0185

Countable Assets; Refugee Case Services Project (RCSP)

In the RCSP program, the rules in divisions 140 and 145 of this chapter of rules determine the treatment of specific assets (see OAR 461-001-0000) for determining eligibility (see OAR 461-001-0000) and benefit amount.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 22-1997, f. & cert. ef. 12-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0190

Applying; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) An application form is readily available to anyone requesting one. The program assists a client unable to complete the application form or gather information necessary to verify eligibility.

(2) If an applicant files an application containing the applicant’s name and address, the program must send the applicant a decision notice (see OAR 461-001-0000).

(3) An applicant must file an application, or may amend an application already complete, as a prerequisite to receiving benefits as follows:

(a) Except as provided in section (7) of this rule, an applicant wishing to apply for RCSP program benefits must submit a complete application on a form approved by the RCSP program.

(b) An application is complete when all of the following requirements are met:

(A) All information necessary to determine the individual’s eligibility and benefit amount is provided on the application for each individual in the filing group.

(B) The applicant, even if homeless, provides a mailing address.

(C) The application is signed. An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(D) The application is received by the RCSP program.

(4) To complete the application process, the applicant or authorized representative must complete and sign an application, apply at the appropriate location, provide necessary information to the RCSP program within the time frame required, and meet the interview requirements of OAR 461-115-0230.

(5) If the RCSP program requires additional information to determine eligibility, the client is entitled to a written notice that includes a statement of the specific information needed to determine

eligibility and the date by which the client must provide the required information to the program.

(6) An applicant may withdraw an application at any time.

(7) A new application is not required in the following situations:

(a) When the case is closed and reopened during the same calendar month.

(b) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(c) To add a newborn child to a *benefit group* (see OAR 461-110-0750), but a parent in the benefit group must re-sign and date the current application.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 22-1997, f. & cert. ef. 12-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0221

Training Activities; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

(1) NAES program training services are provided in coordination with the RCSP program.

(2) In the NAES program:

(a) Only selected and approved client vocational training is considered a higher service priority than job search, job referral, or job placement activities.

(b) A client in a training program must remain a student in good standing and make satisfactory progress in the program.

(c) A client must agree to attend daily classes and to report absences to the instructor in a timely manner.

(d) Each client must be told of the consequences of poor attendance. Poor attendance in a training program is a noncooperation issue (see OAR 461-193-0042).

(e) Each client is responsible for arranging transportation and child care to attend the training program. Lack of child care or transportation is not a valid barrier to participation in training classes.

(f) The provided training must include monitoring.

(3) The job worker must review the client’s progress at the end of each month and when training is completed.

(4) The instructor monitors attendance and informs the job worker of all absences.

(5) The training instructor completes a detailed exit evaluation of each training participant. The evaluation covers the client’s motivation to seek employment and to learn English, skills and knowledge gained by the class, barriers removed, and behavior likely to affect employment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0240

Exemption From Participating; New Arrival Employment Services (NAES)

(1) Participation in the NAES program is limited to RCSP program adult clients and refugees who would be eligible for the RCSP program, but have been in the U.S. for more than eight months and less than 13 months.

(2) An adult client is exempt from participation in or disqualification from the NAES program when the client meets the requirements of OAR 461-130-0310.

Stat. Auth.: ORS 411.060, 411.116, 412.006

Stats. Implemented: ORS 411.060, 411.116, 412.006

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 13-2010(Temp), f. & cert. ef. 5-17-10 thru 11-13-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12

461-193-0246

Employment Incentive; New Arrival Employment Services (NAES)

In the NAES program:

(1) A client is eligible for an employment incentive only while active in the NAES program.

(2) To be eligible for an employment incentive, a client must meet the requirements of one of the following subsections:

(a) The client must retain full-time employment for 90 days. Eligibility for the incentive starts on the 90th day of employment.

(b) The client must be employed in two part-time jobs concurrently, totaling at least 35 hours per week. Eligibility for the incentive starts on the 90th day of the job which makes the work week total to 35 hours per week or more.

(3) A client may receive only one 90-day employment incentive.

Stat. Auth.: ORS 409.050, 411.060

Stats. Implemented: ORS 409.010, 411.060

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 22-1997, f. & cert. ef. 12-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 18-2003, f. & cert. ef. 7-1-03; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. 2-1-94;

461-193-0320

Effective Dates for Cash Assistance; Refugee Case Service Project

In the Refugee Case Service Project (RCSP), eligibility for cash assistance is according to the following dates:

(1) After all initial eligibility factors for the case are completed and verified, the initial cash assistance date is set as the date of the case service intake, except as stated in section (2).

(2) When all of the following subsections are met, the effective date for cash assistance is the first day of the month in which the date of application falls:

(a) The individual is eligible to receive REF assistance.

(b) The individual's entry to the United States:

(A) And application date fall within the same month; or

(B) Was in another state while in transit to Oregon for resettlement, and the application date falls in the second month of arrival in the United States.

(c) The individual has not received refugee cash assistance in any other state.

(3) For a child born in the United States to a refugee already enrolled in RCSP as per section (1) of this rule, the initial cash assistance date is set as the date of birth.

(4) For an applicant who quit a job or refused to accept an offer of employment without good cause (see OAR 461-193-0890) within 30 consecutive calendar days immediately prior to the application, the initial cash assistance eligibility is no earlier than the 30th day from the date of the job quit or job refusal.

(5) For cases in which a disqualification has been removed due to a client's compliance with participation requirements and completion of a cooperation period of two consecutive weeks as specified in a new employment plan, the cash eligibility date is the date the client agreed to re-engage, per OAR 461-193-1230.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 412.006, 412.049

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. 2-1-94; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 2-1996(Temp), f. 1-30-96, cert. ef. 2-1-96; AFS 11-1996, f. 3-27-96, cert. ef. 4-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 5-1-00; AFS 14-2000, f. & cert. ef. 5-2-00; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 13-2013, f. & cert. ef. 7-1-13

AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert.

ef. 12-1-95; AFS 2-1996(Temp), f. 1-30-96, cert. ef. 2-1-96; AFS 11-1996, f. 3-

27-96, cert. ef. 4-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-

461-193-0470

Eligibility Decision; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) The RCSP program worker determines whether the applicant meets initial eligibility for the RCSP program.

(2) The final determination of eligibility is made by the Department's State Refugee Coordinator or designee.

Stat. Auth.: ORS 411.060

1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0560

Payment Standards; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) Except as provided in section (2) of this rule, the cash assistance payment standard amount for a client is the sum total of the TANF payment standard under OAR 461-155-0030(2) plus the Cooperation Incentive under OAR 461-155-0035(2).

(2) Effective October 1, 2010, the cash assistance payment standard amount for a client is the same as the TANF payment standard under OAR 461-155-0030(2)(b).

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.070, 412.006, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 412.006, 412.049

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. 2-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 6-1997, f. 5-28-97, cert. ef. 6-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 3-2003(Temp), f. & cert. ef. 2-14-03 thru 6-30-03; SSP 18-2003, f. & cert. ef. 7-1-03; SSP 27-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 34-2003, f. 12-31-03 cert. ef. 1-1-04; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11

461-193-0670

Payment Controls; Refugee Case Services Project (RCSP)

In the RCSP program, a cash assistance benefit payment must be authorized by the RCSP program provider, approved by a supervisor, and documented on a Department approved project form. The final determination of eligibility is made as described in OAR 461-193-0470.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12

461-193-0690

Overpayments; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) An overpayment is any cash payment made by the project that exceeds the amount a client is eligible for, and is received by, or on behalf of, that client. An overpayment may result from administrative or client error.

(2) Any overpayment amount is a debt and a delinquent account owed to the State of Oregon and is subject to collection. The project may recover the overpayment amount from the case head (see OAR 461-193-0130) and any adult who was a member of the case at the time of the overpayment. The project may recover an overpayment amount from any of the following sources or from any other source permitted by law:

- (a) Reimbursement from the client.
- (b) Reduction of ongoing benefits.

(c) The amount of any restoration of benefits otherwise payable to the client (ending a disqualification).

(d) An overpayment not immediately recoverable from a source specified in this section is subject to collection services through the Department.

(3) An overpayment may be paid in full or under a repayment schedule. Each repayment schedule must be approved by the case service supervisor, and the State Refugee Coordinator or designee.

(a) A repayment schedule must be one of the following:

(A) The total amount of the overpayment divided by the remaining months of case time eligibility.

(B) Voluntary deduction of the entire overpayment amount from the next cash assistance check, if the overpayment amount is less than the next cash assistance payment.

(C) Voluntary deduction from all future cash assistance payments until the overpayment is repaid.

(b) Cash repayment must be made according to the procedure determined by the State Refugee program.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert.

ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0890

Good Cause; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

(1) A client has good cause for a failure to comply with a requirement of an employment program, including an activity (see OAR 461-001-0025) in an employment plan, in any of the following circumstances:

(a) Participation in a required activity in an employment plan would have an adverse effect on or be a risk to the client's physical or mental health or would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(b) Participation is likely to cause undue hardship for the client or a child of the client.

(c) The failure to comply was caused by the failure of the Department to provide or authorize a timely support service payment.

(d) Appropriate child care cannot be obtained for an individual in the household who has a disability (see OAR 461-001-0000) that substantially reduces or eliminates the individual's ability to care for himself or herself. "Appropriate child care" means that:

(A) Both the provider and the place where care is provided meet health, safety, and provider requirements under OAR 461-165-0180;

(B) The care accommodates the parent's work schedule; and

(C) The care meets the specific needs of the child, such as age and special-needs requirements.

(e) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.

(f) The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.

(g) The client belongs to a union and the employment violates the conditions of the client's membership in the union.

(h) The wage for the client's current or potential job is:

(A) Less than applicable minimum wage; or

(B) If minimum wage laws do not apply, the wage or rate for piece work is less than that normally paid for similar work.

(i) The client's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.

(j) The client's failure to participate is due to a circumstance beyond his or her reasonable control.

(k) When the failure to comply is caused by an aspect of the client's disability.

(l) The client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The client must make a good-faith effort to secure the needed transportation.

(m) The hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.

(n) The client accepts a job that, for reasons beyond the control of the client, does not materialize or results in fewer work hours or a lower wage than the client's previous job.

(o) The client is in her seventh or eighth month of pregnancy and either works in a job that requires her to work more than 10 hours each week or has a case plan (see OAR 461-001-0025) that requires her to participate more than 10 hours each week.

(p) The client quits a full-time job to accept another full-time job with a wage at least equal to the wage of the first job.

(q) The client makes a good faith effort to complete an activity on the employment plan but is unable to do so.

(2) A client is excused from a failure to comply with a requirement of an employment program for good cause when the client participates in suitable activities for the number of hours required each month to satisfy federally required participation rates (see OAR 461-001-0025).

(3) The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of domestic violence.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0940

Disqualifications; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the NAES and RCSP programs:

(1) A client may be disqualified for failure to comply with the requirements of the program. A disqualification is initiated only after the client has had an opportunity to participate in the re-engagement process under OAR 461-193-0960.

(2) In the NAES program, the Department does not apply a disqualification until the Department:

(a) Determines the client is willfully non-compliant and does not have good cause (see OAR 461-193-0890) for failing to comply with a requirement of the program;

(b) Offers (and the client refuses) or conducts screenings (and assesses if appropriate) for physical or mental health needs, substance abuse, domestic violence, and learning needs;

(c) Determines the client has no barrier (see OAR 461-001-0025) or the client refuses to take appropriate steps to address any identified barrier;

(d) Determines the client has not met federally required participation rates (see OAR 461-001-0025); and

(e) Assesses the risk of harm posed to a child of the client by a reduction in cash assistance.

(3) Disqualifications are imposed under the following conditions and are progressive, with three levels of penalties:

(a) The first disqualification results in a \$50 decrease in the payment standard for the case. This disqualification may be applied only one time during project eligibility.

(b) The second disqualification results in removal of the client from the need group (see OAR 461-110-0630).

(c) The third disqualification results in loss of cash assistance for the entire case.

(4) An applicant disqualified for failure to comply with the requirements of an employment program is treated the same as a client under section (1) of this rule.

Stat. Auth.: ORS 411.060, 411.116

Stats. Implemented: ORS 411.070, 411.135, 412.006, 412.049, 414.025

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 16-2000(Temp), f. 6-28-00, cert. ef. 7-1-00 thru 9-30-00; AFS 24-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0960

Re-engagement; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the NAES and RCSP programs:

(1) When an aspect of the RCSP program or an employment plan is unmet or in dispute, the re-engagement process provides an opportunity for the client and the Department to:

(a) Review and re-evaluate the RCSP program expectations or the employment plan and other information about each strength and barrier (see OAR 461-001-0025) of the client;

(b) Identify participation expectations and concerns about participation and completion of each activity (see OAR 461-001-0025) in the RCSP program or the employment plan;

(c) Consider whether the employment plan is still appropriate;

(d) Develop options that support the client's full participation; and

(e) Revise the employment plan as appropriate.

(2) The re-engagement process assists the Department in identifying whether the client is unable to participate fully or is willfully non-compliant.

(a) If screenings for physical or mental health needs, substance abuse, domestic violence (see OAR 461-001-0000), or learning needs are incomplete, the re-engagement process provides an additional opportunity to initiate screenings for any previously unidentified barrier to participation.

(b) Circumstances requiring a determination of whether good cause (see OAR 461-193-0890) exists include: disagreements about an RCSP program activity, the employment plan, irregular attendance at activities, missed appointments, failure to participate in a component of the case plan, and refusal to accept or maintain employment.

(3) The re-engagement process must assess the risk of harm posed to a child (see OAR 461-001-0000) in the filing group (see OAR 461-110-0430) by the potential reduction in aid payments and take steps to ameliorate any identified risk.

(4) The client, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required activity.

(5) The Department will not disqualify a client based on the client's failure to participate in the re-engagement process.

(6) The client or Department may invite a partner agency, a Department contractor, an individual currently working with the client, or another individual with information relevant to the re-engagement process to any appointment or meeting scheduled as part of the re-engagement process.

(7) The re-engagement process ends when any of the following occurs:

(a) The Department and the client agree to a modified employment plan;

(b) Efforts to re-engage the client are unsuccessful;

(c) The Department determines the client meets the federally required participation rates (see OAR 461-001-0025);

(d) The client clearly indicates the intent not to participate in the re-engagement process;

(e) The client is willfully non-compliant and has the ability to be fully engaged;

(f) The client has no identified barrier to participation or refuses to take an appropriate step to address an identified barrier to participation in the program; or

(g) A client does not have good cause (see OAR 461-193-0890) for not complying with a requirement of the program, and the client is able but unwilling to address the issue through activities that address an identified barrier to participation or a case plan modification.

(8) When the re-engagement process ends unsuccessfully the Department may begin the process of disqualifying a client for failure to comply with a requirement of the NAES or RCSP program.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-1140

Notice Situations; Refugee Projects

(1) All Refugee projects must have policy and procedures for sending a decision notice when project benefits and/or services are:

(a) Denied;

(b) Reduced; or

(c) Closed.

(2) For NAES and Refugee case service projects, the project worker shall send a decision notice to the participant according to the following time lines:

(a) For denials, give the decision notice to the applicant at the time of the intake.

(b) For disqualifications, send the decision notice at the time that noncooperation is established and no later than the fifteenth of the month preceding the month in which the action is to become effective.

(c) For time eligibility, send the decision notice no later than the first day of the month of closure.

(d) For cases that fail to provide MCIR and/or MCIR information, the provision included in the MCIR that informs clients that their case will close at the end of the current calendar month if they fail to submit an MCIR shall serve as notice. Send a notice confirming case closure at the end of the current calendar month to cases that fail to submit an MCIR by the end of that month.

(e) For all other closures, send the decision notice as soon as the information becomes known.

(f) For all disqualifications, reductions and closures, if the decision notice cannot be mailed the fifteenth of the month preceding the month in which the action is to become effective, the action to be imposed cannot be effective until the next month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 20-2000, f. 7-31-00, cert. ef. 8-1-00; AFS 20-2001(Temp), f. & cert. ef. 9-20-01 thru 12-31-01; AFS 26-2001, f. 12-21-01, cert. ef. 1-1-02

461-193-1200

Cooperation Requirements; New Arrival Employment Services (NAES)

In the NAES program:

(1) A client must provide the information required by the Department. The required information includes information needed to:

(a) Determine if the client is mandatory to participate in the program;

(b) Assess the client's participation level in the NAES program;

(c) Assess whether a client has good cause (see OAR 461-193-0890) for any failure to meet a requirement of the NAES program; or

(d) If a medical condition is in question, provide the Department with a medical opinion from an appropriate medical professional.

(2) A client who is required to participate in the NAES program must do all of the following:

(a) Complete the assessment process and provide sufficient information for the Department to determine whether the client must participate in the NAES program.

(b) Register for the NAES program by completing the forms required by the Department. A client required to participate in the NAES program who fails to register is ineligible for benefits.

(c) Meet all of the following participation requirements:

(A) Accept a bona fide offer of employment, whether temporary, permanent, full-time, part-time, or seasonal.

(B) Maintain employment. A client fails to maintain employment when the client:

(i) Does not accept an increase in hours worked that would result in increased earnings, so long as the maximum amount of hours worked per week does not exceed 40 hours;

(ii) Quits work without good cause or is discharged for misconduct in accordance with the unemployment insurance compensation laws of the State of Oregon; or

(iii) Voluntarily reduces earnings or hours of employment.

(C) Schedule and keep required employment-related appointments and interviews.

(D) Notify the Department's case manager or the NAES program contractor of the reason for not keeping employment-related appointments and interviews, not attending scheduled classes and activities, and not completing case management activities. Notification must be made within three working days from the date of a missed appointment, interview, class, or activity.

(E) Provide the Department, in the manner required, with verifiable documentation of NAES program participation hours including paid work, job search activity, and educational activity.

(F) Complete each case management assignment specified in the employment plan.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-1230

Removing Disqualifications; New Arrival Employment Services (NAES), Refugee Client Services Project (RCSP)

In the NAES and RCSP programs:

(1) A client disqualified for failure to meet the requirements of the NAES or RCSP program must comply with those requirements before the disqualification may be removed.

(a) When the Department removes a disqualification due to a client's compliance with participation requirements and completion of a cooperation period of two consecutive weeks as specified in a new employment plan, the client is eligible for cash benefits effective the date the client agreed to re-engage.

(b) If a client requests an opportunity to comply with the participation requirements prior to the effective date of a proposed disqualification, the Department amends the employment plan to enable the client to comply with the requirements for the period remaining before the effective date of the disqualification. If the client meets participation requirements during this period, the disqualification penalty is not imposed but the month in which the disqualification penalty was to be imposed counts as a month of disqualification.

(c) A client stating a desire to cooperate with participation requirements on or after the date the disqualification takes effect, must be assigned a cooperation period of two consecutive weeks. The client must complete a new employment plan before cash benefits are restored. The disqualification ends after the client participates in the cooperation period of two consecutive weeks.

(d) For a client who completes the cooperation period of two consecutive weeks under subsection (c) of this section, the disqualification ends and only one month of the penalty imposed counts as a disqualification.

(2) A disqualification ends when the client is no longer required to participate in the NAES program or complies with the requirements of the employment program under section (1) of this rule. For a client no longer required to participate in the NAES program, the disqualification ends on the first day of the month in which the client informs the Department of the facts that justify the change in the participation requirement.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-1380

Standards for NAES Support Service Payments

In the NAES program:

(1) The Department helps an individual comply with the individual's case plan (see OAR 461-001-0025) by providing payments for child care, housing, transportation, and other needs to make participation in required activities (see OAR 461-001-0025) successful. These payments are provided for costs directly related to participation in activities, for costs necessary to obtain and retain a job, and for enhancing wages and benefits.

(a) In approving NAES support service payments, the Department must consider lower-cost alternatives.

(b) It is not the intent of the Department or of this rule to use Department funding when other funding is available in the community. It is the Department's expectation that case managers and clients work collaboratively to seek resources that reasonably are available to the client to facilitate participation in required activities.

(c) An NAES program client is not eligible to receive any support service payment, except for child care or transportation, during his or her first 30 days in the United States.

(2) An NAES program support service payment must be authorized in advance and is subject to the limitations of this rule.

(3) Subject to the limitations of state funding and this rule, an NAES program support services (see OAR 461-001-0025) payment

is made available to an individual if all of the following requirements are met:

- (a) The individual is an NAES participant.
- (b) The individual has agreed to participate in a NAES activity or other approved activities as specified in the individual's case plan.
- (4) Denials and Reductions. The Department may reduce, close, or deny in whole or in part an individual's request for an NAES support service payment in each of the following circumstances:
 - (a) If the individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the client to comply with his or her case plan.
 - (b) If the purpose for the payment is not related to the individual's case plan.
 - (c) If the client disagrees with a support service payment offered or made by the Department as outlined in the client's case plan.
- (5) Required Verification.
 - (a) The Department may require the individual to provide verification of a need for the support service prior to approval and issuance of payment if verification is reasonably available.
 - (b) The Department may require the individual to provide verification of costs associated with a support service if verification is reasonably available.
- (6) Child Care. Payments for child care are authorized, as limited by OAR 461-160-0040, if necessary to enable the individual to participate in NAES program activities or other approved activities specified in the individual's case plan. If authorized, payment for child care will be made for:
 - (a) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when a child is in care less than 158 hours per month; and
 - (A) Appropriate care is not accessible to the individual at the hourly rate; or
 - (B) The individual is a teen parent using on-site care while attending education activities.
- (b) The minimum hours necessary, including meal and commute time, for the individual to participate in NAES program activities, other approved activities, or to obtain and perform employment duties.
- (7) Child care payments may be provided when an individual is not participating in NAES program activities or other approved activities if payment is necessary for the client to retain his or her child care provider. Only the minimum amount necessary to maintain the child care slot with the provider may be covered as established in OAR 461-155-0150. Not more than 30 days between scheduled NAES program activities or other approved activities may be covered.
- (8) Unless good cause (see OAR 461-193-0890) has been determined, an NAES program client must attend an NAES program child care orientation to receive on-going child care payments.
- (9) Housing and Utilities. In addition to a payment for basic living expenses under OAR 461-135-0475, a payment may be provided to an NAES program participant to secure or maintain housing and utilities in the following situations:
 - (a) To prevent an eviction or utility shut-off, secure housing to find or maintain employment, or participate in activities listed in the individual's case plan. Payment is available when all of the following requirements are met:
 - (A) The individual cannot make a shelter or utility payment due to a lack of assets.
 - (B) The lack of assets did not result from an NAES program or Child Support disqualification, a reduction due to an IPV recovery, overpayment recovery (other than administrative error), or failure by the individual to pay shelter or utility expenses when funds were reasonably available.

(C) The individual's case plan addresses how subsequent shelter or utility payments are to be made.

(b) The shelter need results from domestic violence (see OAR 461-001-0000) and all of the following requirements are met:

- (A) The individual is not eligible for the TA-DVS program.
- (B) The individual is able to pay all subsequent shelter costs, either through the individual's own resources or through other resources available in the community.

(C) The individual's case plan addresses how subsequent shelter costs are to be paid.

(c) An NAES program client who receives a cash grant through the RCSP program is expected to meet the housing and utility expenses out of the amount received each month in the cash grant. A NAES program client who receives an RCSP program cash grant may receive a housing and utility support services payment on a case-by-case basis, if the client otherwise meets the support service payment eligibility criteria of this section.

(10) Transportation. The Department provides support services payments for transportation costs incurred in travel to and from NAES program activities or other approved activities. Payment is made only for the cost of public transportation or the cost of vehicle insurance, repairs, and fuel for a personally owned vehicle. The Department may not authorize payment for repair of a vehicle owned by an individual who is not in the filing group (see OAR 461-110-0330). A transportation support service payment is subject to the following considerations:

(a) A payment for public transportation is given priority over a payment for a privately owned vehicle.

(b) A payment for a privately owned vehicle is provided if the client or driver has a valid license and one of the following requirements is met:

(A) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available; or

(B) Public transportation is available but is more costly than the cost of car repair or fuel.

(11) Unless good cause has been determined, an NAES program client must attend an NAES program mass transit training to receive on-going transportation payments.

(12) Other Payments. The Department provides support services payments for other items directly related to participation in NAES program activities. A payment under this section may be authorized for:

(a) Reasonable accommodation of a client's disability (see OAR 461-001-0000).

(b) Costs necessary in obtaining and retaining a job or enhancing wages and benefits, such as:

(A) Clothing and grooming for participation in NAES program activities or job interviews.

(B) Moving expenses necessary to accept employment elsewhere.

(C) Tools, bonding, and licensing required to accept or retain employment.

(c) Tuition for vocational training (see OAR 461-001-0025) through the NAES program only:

(A) After the client has been approved for vocational training;

(B) When no other funding is available;

(C) To the extent that Department funding designated for this purpose is available; and

(D) When the training is necessary for a job leading to a higher wage and high demand occupation, as defined by the Workforce Investment Act (WIA).

Stat. Auth.: ORS 411.060, 411.116, 411.135, 412.006, 412.049, 414.025

Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.135, 412.006, 412.049, 414.025

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 16-2000(Temp), f. 6-28-00, cert. ef. 7-1-00 thru 9-30-00; AFS 24-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 32-2010, f. & cert. ef. 10-1-10

DIVISION 195

LIENS, OVERPAYMENTS AND IPV's

461-195-0301

Definitions

For purposes of OAR 461-195-0301 to 461-195-0350, the following definitions apply:

- (1) "Action" means an action, suit, or proceeding.
- (2) "Applicant" means an applicant for assistance (see section (3) of this rule).
- (3) "Assistance" means moneys for the needs of a recipient (see section (12) of this rule) and for the needs of other individuals living with the recipient whom the recipient has an obligation to support which are paid by the Department (see section (7) of this rule), CCO (see section (4) of this rule), or prepaid managed care health services organization (see section (11) of this rule) either directly to the recipient or to others for the benefit of the recipient. "Assistance" includes both cash and medical assistance programs. "Assistance" does not include SNAP benefits. The "assistance" must be directly related to the personal injury (see section (10) of this rule). "Assistance" is received by the recipient on the date of issuance of a check for cash assistance and the date of service for medical assistance, regardless of the actual payment date by the Department, CCO, or prepaid managed care health services organization.
- (4) "CCO" means a Coordinated Care Organization as defined in OAR 410-141-0000.
- (5) "Claim" means a legal action or a demand by, or on behalf of, a recipient for damages for or arising out of a personal injury which is against any person or public body, agency or commission other than the State Accident Insurance Fund Corporation or Workers' Compensation Board.
- (6) "Compromise" means a compromise between a recipient and any person or public body, agency or commission against whom the recipient has a claim (see section (5) of this rule).
- (7) "Department" means the Department of Human Services, the Oregon Health Authority, or both.
- (8) "Judgment" means a judgment in any action (see section (1) of this rule) or proceeding brought by a recipient to enforce the claim of the recipient.
- (9) "Loan receipts" means an arrangement in which a CCO or prepaid managed care health services organization pays medical costs for or to the recipient, and the recipient agrees to repay the CCO or prepaid managed care health services organization from a recovery the recipient receives from a third party that injured the recipient, or any similar arrangement.
- (10) "Personal injury" means a physical or emotional injury to an individual, for which the individual has a claim including, but not limited to, injuries arising from assault, battery, or medical malpractice.
- (11) "Prepaid managed care health services organization" means a managed health, dental, or mental health care organization that contracts with the Department on a prepaid basis under the Oregon Health Plan (OHP) (see OAR 410-200-0015). A "prepaid managed care health services organization" may be a dental care organization, fully capitated health plan, mental health organization, physician care organization, chemical dependency organization, or CCO.
- (12) "Recipient" means an individual who receives or received assistance or whose needs are or were included in a public assistance grant.
- (13) "Settlement" means a settlement between a recipient and any person or public body, agency or commission against whom the recipient has a claim, and includes any agreement to pay, or payment of or compensation received by a recipient under Oregon Laws 2013, chapter 5.
- (14) "Trust agreements" means an arrangement in which a CCO or prepaid managed care health services organization pays medical expenses for or to the recipient, and the recipient agrees to hold in trust for the prepaid managed care health services organization

tion money from a recovery the recipient receives from a third party that injured the recipient, or any similar arrangement.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 412.049, 413.033, 413.042, OLS 2013 Ch 14 sec. 10

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.049, 413.033, 413.042, 416.510 - 416.610

Hist.: AFS 62-1989, f. 10-5-89, cert. ef. 10-15-89; AFS 26-1993, f. 10-29-93, cert. ef. 11-1-93; Renumbered from 461-010-0100; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2015, f. 3-30-15, cert. ef. 4-1-15

461-195-0303

Personal Injury Claim

(1) The Personal Injury Liens Unit is designated and authorized to administer the personal injury lien program for the Oregon Health Authority (the Authority) and the Department of Human Services (the Department) (see OAR 461-195-0301). To administer the program, the Personal Injury Liens Unit is also authorized to:

- (a) Prepare and file liens;
- (b) Assign lien authority to a CCO (see OAR 461-195-0301) or a prepaid managed care health services organization (see 461-195-0301) for medical costs paid by a CCO or prepaid managed care health services organization to or on behalf of an applicant (see 461-195-0301) or recipient (see 461-195-0301) arising from any personal injury (see 461-195-0301);
- (c) Assert any rights or remedies, including filing a complaint in court, arising from an assignment of right to payment acquired by the Authority in accordance with ORS 659.830 and 743.847, from an applicant or recipient; and
- (d) Assert any rights or remedies granted in ORS 416.580 or 416.610.
- (2) An applicant or recipient of medical assistance, as a condition of eligibility, must assign to the Authority any rights to payment from any third party liable for medical costs paid by medical assistance to or on behalf of an applicant or recipient arising from any personal injury.
- (3) An applicant or recipient of assistance (see OAR 461-195-0301), except OCCS Medical Programs (see 410-200-0015), must pursue a personal injury claim (see 461-195-0301) in accordance with 461-120-0330 (Requirement to Pursue Assets).
- (4) An applicant or recipient of OCCS Medical Programs assistance must pursue a personal injury claim in accordance with OAR 410-200-0220 (Requirement to Pursue Assets).
- (5) An applicant or recipient must cooperate with the Personal Injury Liens Unit, CCO, or prepaid managed care health services organization to:
 - (a) Identify any third party liable or potentially liable for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of an applicant or recipient arising from any personal injury;
 - (b) Provide information about liability or other insurance that may cover or pay for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of an applicant or recipient arising from any personal injury;
 - (c) Complete a MSC 0451, MSC 0451NV, or similar online form as required by the Personal Injury Liens Unit, CCO, or prepaid managed care health services organization;
 - (d) Provide other information as required by the Personal Injury Liens Unit, CCO, or prepaid managed care health services organization to assist in pursuing payment from any third party who may be liable for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of an applicant or recipient arising from any personal injury;
 - (e) Appear as a witness in court, administrative hearing, or other proceeding arising from any personal injury; and
 - (f) Pay to the Department any medical damages received by the recipient that are subject to the Department's lien or assignment of rights to payments.
- (6) An applicant or recipient of OCCS Medical Programs assistance who fails to comply with section (5) of this rule is ineligible for benefits until the individual meets the requirements of

section (5) of this rule, or has good cause (see OAR 410-200-0220) not to comply.

(7) An applicant or recipient of assistance, other than OCCS Medical Programs, who fails to comply with section (5) of this rule is ineligible for benefits until the individual meets the requirements of section (5) of this rule, or has good cause (see OAR 461-120-0330) not to comply.

(8) For all programs, the existence of a claim for damages for a personal injury does not make an applicant or recipient ineligible for program benefits.

Stat. Auth.: ORS 409.050, 411.060 & 416.510 - 416.610

Stats. Implemented: ORS 411.620, 411.630, 411.632, 411.635 & 411.640

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 26-1993, f. 10-29-93, cert. ef. 11-1-93; Renumbered from 461-195-0300; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2015, f. 3-30-15, cert. ef. 4-1-15

461-195-0305

Lien of the Department

(1) Whenever a recipient has a claim for damages for a personal injury, the Department shall have a lien upon the amount of any judgment in favor of a recipient or amount payable to the recipient under a settlement or compromise as a result of that claim for all assistance received from the date of the injury to:

(a) The date of satisfaction of the judgment favorable to the recipient; or

(b) The date of the payment under the settlement or compromise.

(2) The person or public body, agency or commission bound by the judgment, settlement, or compromise shall be responsible for immediately informing the Department's Personal Injury Liens Unit when a judgment has been issued or a settlement or compromise has been reached so that the exact amount of the Department's lien may be determined. For the purposes of this rule, immediately means within ten calendar days. If the Department is not timely notified, the 180 day limitation in ORS 416.580(1) does not begin to run until the Department's Personal Injury Liens Unit has actual notice of a settlement, compromise, or judgment.

(3) The lien will not attach to the amount of any judgment, settlement, or compromise to the extent of the attorney fees, costs and expenses which the Recipient incurred in order to obtain that judgment, settlement, or compromise.

(4) The lien will not attach to the amount of any judgment, settlement, or compromise to the extent of medical, surgical and hospital expenses personally incurred by such recipient on account of the personal injury giving rise to the claim, for which assistance was not provided or paid. For purposes of OAR 461-195-0301 to 461-195-0350, personally incurred expenses are limited to those expenses not covered by the Department, and for which the client is personally liable at the time of judgment, settlement, or compromise.

(5) The Department's lien must be satisfied or specific approval must be given by the Department's Personal Injury Liens Unit's staff before any portion of the claim judgment, settlement, or compromise is released to the recipient. There is a rebuttable presumption that the entire proceeds from any judgment, settlement, or compromise, are, unless otherwise identified, in payment for medical services. The Department shall have a cause of action against any person, public body, agency, or commission bound by the judgment, settlement, or compromise who releases any portion of the claim judgment, settlement, or compromise to the recipient before meeting this obligation.

Stat. Auth.: ORS 409.050, 411.060 & 416.510 - 416.610

Stats. Implemented: ORS 25.020, 25.080, 409.020, 411.060, 416.510-416.610

Hist.: AFS 62-1989, f. 10-5-89, cert. ef. 10-15-89; AFS 26-1993, f. 10-29-93, cert. ef. 11-1-93; Renumbered from 461-010-0105; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

461-195-0310

Notice of Claim or Action by Applicant or Recipient

(1) An applicant (see OAR 461-195-0301) for or recipient (see OAR 461-195-0301) of assistance (see OAR 461-195-0301) who has a claim (see OAR 461-195-0301) for a personal injury (see OAR 461-195-0301) or begins an action (see OAR 461-195-

0301) to enforce such claim — or the attorney, personal representative (see OAR 407-014-0000), or authorized representative (see OAR 410-200-0015 and 461-115-0090) for the applicant or recipient — must notify the Department (see OAR 461-195-0301) and the CCO (see OAR 461-195-0301) of the recipient, if the recipient is receiving services from the CCO, within ten days of initiating that claim or action, unless the action was initiated prior to the application for assistance.

(a) If the action was initiated prior to the application for assistance, the applicant must notify the Department at the time of application.

(b) The notification must include:

(A) The names and addresses of all parties against whom the action is brought or claim is made;

(B) A copy of each claim demand; and

(C) If an action is brought, the case number and the county where the action is filed.

(c) A parent, guardian, foster parent, caretaker relative, attorney, personal representative, or authorized representative must make the notification on behalf of an individual under the age of 18 or an incompetent adult.

(2) Notification required under section (1) of this rule must be sent to the Personal Injury Liens Unit, Office of Payment Accuracy and Recovery, Department of Human Services, by mail or facsimile (see sections (4) and (5) of this rule).

(3) Notices required by ORS 416.530 to be sent to the Oregon Health Authority (Authority) may be consolidated with similar notices to the Department and sent to the Personal Injury Liens Unit. A consolidated notice is considered notice to the Authority if the Authority's interest or claim in the matter is identified in the notice consistent with requirements in the applicable statute. (See also OAR 943-001-0020(2)(e).)

(4) The mailing address for the Personal Injury Liens Unit is: Personal Injury Liens Unit, PO Box 14512, Salem OR 97309-0416.

(5) The facsimile number for the Personal Injury Liens Unit is (503) 378-2577 and the telephone number is (503) 378-4514.

(6) If an applicant for or recipient of assistance— or the attorney, personal representative, or authorized representative for the applicant or recipient — fails to give the notification as required by this rule, the Department or the CCO of the recipient, if the recipient is receiving services from the CCO, has a cause of action under ORS 416.610 against the recipient for amounts received by the recipient pursuant to a judgment (see OAR 461-195-0301), settlement (see OAR 461-195-0301), or compromise (see OAR 461-195-0301) to the extent that the Department or the CCO could have had a lien against such amounts had such notice been given. At least 30 days prior to commencing an action under ORS 416.610, the Personal Injury Liens Unit and the CCO, if any, must consult with each other.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 412.049, 413.033, 413.042, 413.085, 414.685

Stats. Implemented: ORS 409.050, 410.070, 411.060, 411.070, 412.049, 413.033, 413.042, 413.085, 414.685, 416.510, 416.530, 416.610

Hist.: AFS 62-1989, f. 10-5-89, cert. ef. 10-15-89; AFS 26-1993, f. 10-29-93, cert. ef. 11-1-93; Renumbered from 461-010-0110; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-195-0315

Notice of Determination of Lien by Department

Where the Department determines that it has a lien pursuant to OAR 461-195-0305, the Department shall:

(1) Notify the recipient of the Department's determination;

(2) File a notice of lien with the county recording officer as provided in ORS 416.550(a); and

(3) Send, by registered or certified mail, a certified copy of the Notice of Lien filed pursuant to section (2) of this rule to each person or public body, agency or commission against whom the claim is made or action is brought by or on behalf of the recipient.

Stat. Auth.: ORS 409.050, 411.060 & 416.510 - 416.610

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Chapter 461 Department of Human Services, Self-Sufficiency Programs

Hist.: AFS 62-1989, f. 10-5-89, cert. ef. 10-15-89; AFS 26-1993, f. 10-29-93, cert. ef. 11-1-93; Renumbered from 461-010-0115; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06

461-195-0320

Release of Lien for Future Medicals

(1) To qualify for consideration of a full or partial release of the State's share of the Department's lien (including the amount of an assigned lien) pursuant to ORS 416.600, the recipient must demonstrate, through documentation satisfactory to the Department, that:

(a) As a result of the personal injury for which the recipient has a claim, the recipient has a medical condition which will require future medical treatment;

(b) The nature of future medical treatment;

(c) The date on which the future medical treatment can reasonably be expected to occur;

(d) The anticipated cost of the future medical treatment;

(e) The amount of the settlement, compromise, or judgment awarded the recipient;

(f) Timely compliance by the recipient with the notification requirements; and

(g) Any other documentation requested by the Department.

(2) In considering a request for a full or partial release of a lien pursuant to ORS 416.600, the Department may take into account:

(a) Whether the recipient has provided the documentation required by section (1) of this rule;

(b) Whether the future medical treatment is likely to occur in the near future. The Department will evaluate this factor in light of the nature and certainty of the type of medical treatment anticipated;

(c) Whether the amount of the settlement, compromise, or judgment is sufficient to pay the future medicals and all or part of the Department's lien;

(d) Whether the recipient has or is likely to have another source for payment of the future medical expenses;

(e) The effect, if any, of the requested release on the continuing eligibility for future medical or public assistance of the recipient;

(f) Any other factor deemed relevant by the Department, including information received from a prepaid managed health care services organization;

(g) In the event the recipient is a minor, the provisions of OAR 461-195-0350 may apply.

(3) In no case will the Department consider a request for a partial or full lien release pursuant to ORS 416.600 unless the recipient and the liable third party have entered into a final, binding settlement or compromise agreement or the recipient has received a final judgment. In every case, the lien amount that represents the federal share of Title XIX or Title XXI payments must be repaid to the federal government and shall not be subject to partial or full lien release.

Stat. Auth.: ORS 416.510 - 416.600

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 14-1995, f. 6-30-95, cert. ef. 7-1-95; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06

461-195-0321

Assigning a Lien

(1) The Personal Injury Liens Unit may assign a lien to a CCO (see OAR 461-195-0301) or prepaid managed care health services organization (see 461-195-0301) for the amount of covered health services (as defined in Oregon Health Plan Rules, OAR Division 410-141 and the General Rules, OAR Division 410-120, or other

Department (see 461-195-0301) rules establishing covered medical assistance) for a recipient (see 461-195-0301) arising from a personal injury (see 461-195-0301) during the period the Department paid a CCO or prepaid managed care health services organization to provide covered health services to a recipient.

(2) A CCO or prepaid managed care health services organization, within 30 days of receiving notice that an applicant (see OAR 461-195-0301) or recipient has a claim (see 461-195-0301) or action (see 461-195-0301), must give notice to the Personal Injury Liens Unit, and provide additional information as requested by the Personal Injury Liens Unit.

(3) A CCO or prepaid managed care health services organization shall not use loan receipts (see OAR 461-195-0301), trust agreements (see 461-195-0301), or similar arrangements to seek reimbursement from an applicant, recipient, or third party.

(4) The assignment described in section (1) of this rule is made only if the CCO or prepaid managed care health services organization makes a request for an assignment from the Personal Injury Liens Unit, after giving the notice required in section (2) of this rule.

(5) The amount of the lien that may be assigned does not include amounts excluded from a lien according to OAR 461-195-0305(3) and (4), 461-195-0320, or 461-195-0350.

(6) For purposes of ORS 416.510 to 416.610, assignment of the lien establishes the CCO or prepaid managed care health services organization as a designee of the Department in relation to the lien, pursuant to ORS 416.540(5), which designation shall include the following:

(a) As the Department's designee, the CCO or prepaid managed care health services organization is subject to these rules in the pursuit of the assigned lien and any actions taken by the CCO or prepaid managed care health services organization to settle, compromise (see OAR 461-195-0301), or release the assigned lien.

(b) The CCO or prepaid managed care health services organization shall copy the Personal Injury Liens Unit on all documentation related to the assigned lien, including communications with the person or public body, agency or commission against whom a claim is made or an action is brought in relation to settlement (see OAR 461-195-0301), compromise, or release of the assigned lien. This requirement may be met by listing the Personal Injury Liens Unit on the "cc" portion of the documentation or certificate of service, and sending a copy to the Personal Injury Liens Unit when the document is sent or filed.

(c) The Personal Injury Liens Unit may require the use of forms and procedures related to the assignment of liens and notices and the efficient administration of these rules to minimize redundancy in communications with a recipient and the parties to a claim or action.

(7) The form of notice of lien that may be assigned to a CCO or prepaid managed care health services organization shall comply with ORS 416.560, with the CCO or prepaid managed care health services organization assigned as the designee. Upon receiving assignment of a lien from the Personal Injury Liens Unit, the CCO or prepaid managed care health services organization shall perfect the lien as required by ORS 416.550. A CCO or prepaid managed care health services organization with an assigned lien shall notify the Personal Injury Liens Unit no later than 10 calendar days after filing the notice of the lien.

(8) A CCO or prepaid managed care health services organization with an assigned lien shall perfect the lien and document actions taken to recover under the lien. Consequences for failure to comply with requirements for perfecting the lien and recovering