



**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 1

DEFINITIONS

461-001-0000

Definitions

In these rules and regulations, unless otherwise specified, the following terms shall have the stated meanings:

- (1) "Adult and Family Services Division (AFS)" means the Adult and Family Services Division defined by law, including the Administrator of Adult and Family Services Division and such other personnel as may be employed.
- (2) "Adult and Family Services Branch Office or Branch" means the branch offices and the satellite offices of AFS, and personnel employed.
- (3) "Childrens Services Division (CSD)" means the state agency formerly known as CSD, the State Office for Services to Children and Families (SOSCF), and any other city or county agencies that fulfill former CSD duties of child welfare or protective services.
- (4) "Division" means Adult and Family Services Division (AFS) and Senior and Disabled Services Division (SDSD).

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.060

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

461-001-0010

Notice Rule for Rulemaking

Prior to adoption, amendment or repeal of any rule other than a temporary rule, the Adult and Family Services Division shall give notice of the intended action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule.

- (2) By mailing a copy of the notice to persons on the Adult and Family Services Division's mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date of the rule.
- (3) By mailing a copy of the notice to the following organizations and publications:
 - (a) The Associated Press.
 - (b) Legal Aid of Oregon, Public Welfare Review Commission, Oregon Human Rights Coalition and other associations requesting to receive copies of notices of Adult and Family Services Division's rulemaking actions.
 - (c) Capitol Press Room.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 183.341(4)

Hist.: AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95

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**Oregon Administrative Rules
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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 2

GENERAL PROVISIONS

461-002-0510

Power to Subpoena

The Adult and Family Services Division and the Adult and Family Services Branch Office may issue subpoenas for witnesses and compel their attendance and the production of papers and writings and may examine witnesses under oath in connection with the administration of Old-Age Assistance, Aid to the Blind, and Aid to the Disabled.

Stat. Auth.: ORS Ch. 412 & 413

Stats. Implemented: ORS 411.375

Hist.: PWC 612, f. & ef. 6-30-71; PWC 775, f. & ef. 1-19-76

461-002-0515

County Decisions

With respect to each grant of public assistance, the Adult and Family Services Branch Office shall make all determinations of eligibility, shall determine the facts upon which the amount of the grant shall be calculated, and shall designate the effective date of all initial or reopened grants. Except for emergency cash grants from petty cash, the Adult and Family Services Division shall authorize disbursement of all monies under public assistance grants.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 775, f. & ef. 1-19-76

461-002-0520

Filing of Petitions

A petition to promulgate, amend, or repeal a rule of the Adult and Family Services Division pursuant to ORS 183.390, shall be filed with the Administrator of the Adult and Family Services Division.

Stat. Auth.: ORS Ch. 183 & 411

Stats. Implemented: ORS 411.060

Hist.: PWC 622, f. & ef. 11-22-71

461-002-0525

Civil Rights

(1) No individual shall, on the grounds of race, color, national origin or handicap, be excluded from participating in, be denied the benefits of, or be otherwise subjected to discrimination under, federally assisted programs and activities for which the Adult and Family Services Division has responsibility.

(2) The provisions contained in section (1) of this rule are equally applicable to all contractors, grantees, agents and providers of services who receive payments from the Adult and Family Services Division which are funded in whole or in part with federal funds.

(3) The rights specified in section (1) of this rule are protected under Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: AFS 49-1979, f. & ef. 11-27-79

461-002-0600

Notice to Interested Persons

Prior to the adoption, amendment, or repeal of any rule, the Adult and Family Services Division shall give notice of the proposed adoption, amendment, or repeal:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days prior to the effective date.
- (2) By mailing a copy of the notice to persons on the Adult and Family Services Division's mailing list established pursuant to ORS 183.335(6).
- (3) By mailing a copy of the notice to the following persons, organizations, or publications:
 - (a) Oregon State Bar;
 - (b) United Press International and Associated Press;
 - (c) To each Adult and Family Services Division Branch Office to be posted in plain view in the area most frequently visited by the public.

Stat. Auth.: ORS Ch. 183

Stats. Implemented: ORS Ch. 183

Hist.: PWC 768, f. & ef. 10-20-75; AFS 21-1978, f. & ef. 5-30-78

461-002-0610

Administrative Rulemaking

Adult and Family Services Division adopts as its rules of procedure relating to rulemaking under the Administrative Procedure Act the following Attorney General Model Rules of Procedure effective November 4, 1993:

- (1) Under Division 1, Adult and Family Services Division adopts:
 - (a) OAR 137-001-0005 and 137-001-0011, Rulemaking, Definitions and Format;
 - (b)OAR 137-001-0018, Limitation of Economic Effect on Businesses;
 - (c)OAR 137-001-0030, Conduct of Rulemaking Hearings;
 - (d) OAR 137-001-0040, Rulemaking Record;
 - (e)OAR137-001-0050,AgencyRulemaking Action;
 - (f) OAR 137-001-0060, Secretary of State Rule Filing;
 - (g) OAR 137-001-0080, Temporary Rulemaking Requirements;
 - (h) OAR 137-001-0085, Periodic Rule Review.
- (2) Adult and Family Services Division does not adopt any of the Model Rules in Division 3;
- (3) Adult and Family Services Division adopts OAR 137-004-0010, Unacceptable Conduct.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Adult and Family Services Division.]

Stat. Auth.: ORS 183.341 & 411.060

Stats. Implemented: ORS 411.060

Hist.: PWC 621, f. 10-15-71, ef. 11-1-71; PWC 665, f. 11-20-73, ef. 12-11-73; PWC 778, f. & ef. 2-4-76; AFS 21-1978, f. & ef. 5-30-78; AFS 23-1978, f. & ef. 6-12-78; AFS 36-1979, f. & ef. 10-3-79; AFS 20-1980, f. & ef. 4-3-80; AFS 60-1981, f. 9-23-81, ef. 10-1-81; AFS 10-1982, f. 1-29-82, ef. 2-1-82; AFS 7-1983, f. & ef. 2-1-83; AFS 27-1989, f. & cert. ef. 5-2-89; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 5-1994, f. & cert. ef. 4-1-94; AFS 10-1994, f. & cert. ef. 5-10-94

461-002-0611

ERDC-BAS Expenditures

Expenditures by AFS under the ERDC-BAS program are subject to the availability of state funds. ERDC-BAS is subject to immediate curtailment by AFS if the necessary state authorization or funding are not available. Limiting expenditures may be accomplished by opening and closing intake, reducing payment standards or establishing resource

limits.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

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

461-002-0630

JOBS Plus Expenditures

Expenditures by AFS under the JOBS Plus Program are required by state law to be at least costs neutral. The JOBS Plus program is subject to immediate termination if and when AFS determines that the program costs more than the full amount that would otherwise have been spent on benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-002-0700

Statistical Reports

Adult and Family Services Branch Offices shall prepare such statistical reports as are required by the Adult and Family Services Division according to instructions of the State Division, and shall furnish additional information upon request.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 775, f. & ef. 1-19-76

461-002-0920

Continuing Benefits Pending a Hearing

- (1) Filing groups sent a basic decision notice are not entitled to continuing benefits.
- (2) For filing groups sent a continuing benefit or timely continuing benefit decision notice, continue benefits in the same manner and same amount if:
 - (a) A filing group member requests a hearing within the time frame identified in OAR 461-175-0010; and
 - (b) For all programs except FS, the filing group member who requests the hearing completes an Administrative Hearings Request that is:
 - (A) Signed by that person or an authorized representative; and

(B) Received by the branch office within 10 days after the decision notice is mailed or given to the person, or on or before the effective date of the action, whichever is later. If the deadline falls on a weekend or holiday, extend the deadline to the next working day.

(3) For filing groups in which a member working under a JOBS Plus agreement requests a hearing on unpaid absences, continue benefits per section (2) of this rule by supplementing the JOBS Plus wages (including the EIC) up to the full amount of the filing group's ADC and FS benefits.

(4) Do not continue benefits if the filing group member requests that benefits be changed according to the action specified in the decision notice.

(5) If the Final Hearing Order upholds the branch action:

(a) The amount of incorrect continuing benefits paid pending the final order is an overpayment; or

(b) For the following disqualifications, there is no overpayment. The disqualification begins the first of the month following the Final Hearing Order.

(A) JOBS and JOBS Plus disqualifications.

(B) FS employment program disqualifications as a result of any of the following:

(i) Job quits.

(ii) Failure to cooperate with employment programs under OAR 461-130-0265.

(iii) Disqualifications for noncooperation with JOBS or UC employment programs.

(6) If there is another change in the filing group's situation during the period they receive continuation of benefits, change the continuing benefits based on the new situation.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.095

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 25-1994, f. & cert. ef. 11-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96

Selection and Screening of Personal Service Contractors

461-002-1000

Intention and Policy of Division; Applicability

(1) The Division intends to procure personal service contracts only from responsible contractors that possess the ability to perform successfully under the terms and conditions of the procurement and contract. Contactor selection shall include consideration of contractor qualifications, including past performance, compliance with public policy, integrity and financial and technical resources as well as consideration of price and availability.

(2) OAR 461-002-1000 through 461-002-1070 apply solely to personal service contracts. They do not apply to amendments to existing contracts.

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

461-002-1010

Definitions

- (1) "Division" means the Adult and Family Services Division.
- (2) "Personal Services Contract" means a contract for services performed by an independent contractor in a professional capacity, services as a consultant, or educational or specialized services. Greater detail defining Personal Service Contracts within the meaning of this rule is set forth in OAR 125-310-0092.

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

461-002-1020

Procurement Involving Federal Funding

When personal service contracts are to be funded in part or in whole by federal funds, the Division will follow any applicable requirements in federal law. Applicable law may include **7 CFR 277.14, 45 CFR Part 74, Subpart P and 45 CFR 92.36.**

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Adult and Family Services Division.]

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

461-002-1030

Criteria for Selection of Contractors

- (1) After considering the criteria set forth in this rule, contracts shall be awarded to the contractor whose anticipated performance will be of greatest advantage to the Division.
- (2) The primary selection criterion is the contractor's qualifications to provide the service. Contractor qualifications to be reviewed include the contractor's:
 - (a) Knowledge and expertise required to provide the service effectively and efficiently;
 - (b) Level of skill required to provide the service without delaying or interfering with the Division's plan or operations;
 - (c) Financial and technical resources required to provide the service within the budget and schedule of the Division;

- (d) Experience in providing similar services;
- (e) Performance history;
- (f) Compliance with public policy; and
- (g) Integrity.

- (3) A secondary selection criteria is the price to be charged by the contractor. Except in unusual circumstances, the Division will restrict contractor selection to those who charge "Market Rate" or less:
- (a) "Market rate", for the purposes of this section, means a price in the range the Division reasonably believes is ordinary for the qualifications sought and the services to be performed;
 - (b) "Unusual circumstances", for the purposes of this section, includes emergencies and abnormally short deadlines for completion of the work.
- (4) A secondary selection criteria is the availability of the contractor to perform the work within the Division's schedule.

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

461-002-1040

Procedures for Contracts for \$25,000 or Less

- (1) Contract services to be obtained shall be set forth in writing before soliciting quotations and statements of qualifications from prospective contractors.
- (2) Except as provided for under section (5) of this rule, the Division shall contact a minimum of three prospective contractors with which it has had previous successful experience or which are known by the Division to be qualified to offer the sought-after services. Written or oral quotations and statements of qualifications will be sought from prospective contractors.
- (3) Except as provided for under section (5) of this rule, competition shall be used to the maximum extent practicable. As used herein, competition means obtaining quotations and statements of qualifications from a reasonable number of prospective contractors when considering the nature of the services and value of the contract. When practicable, quotations and statements of qualifications will be obtained from at least three prospective contractors.
- (4) The contractor shall be selected using the criteria in OAR 461-002-1030.
- (5) If the Division is satisfied that only a single contractor is available or practicable, the Administrator or Administrator's designee may waive portions of this rule applicable to contacting a minimum number of prospective contractors and competition. A memorandum signed by the Administrator or Administrator's designee setting forth the reasons for using a sole source contact shall be placed in the Division's contract file.

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

461-002-1050

Procedures for Contracts for More Than \$25,000

- (1) The Division may elect to use these procedures for contracts for \$25,000 or less.
- (2) The Division will publish at least one announcement of its need for personal services in an appropriate trade periodical or newspaper of general circulation. The announcement shall include a description of the service sought, the scope of the service required, project completion dates, and a description of any special requirements. It shall invite qualified prospective contractors to indicate to the Division their interest in performing the service. The announcement will specify a closing date by which the statement must be received by the Division, and Division's address.
- (3) The Division shall use a written selection and screening process. This process will be set forth in a written procurement that involves Invitations to Bid, Requests for Proposals, or any similar process that includes a description of the services required and a process for awarding the contract. The Division shall follow the selection and screening process set forth in the written procurement.
- (4) Competition shall be used to maximum extent practicable. As used herein, competition means obtaining proposals from two or more prospective contractors capable of providing the requested services:
 - (a) If the Division is satisfied that only a single contractor is available or practicable, the Administrator or Administrator's designee may waive the portions of this rule regarding publication and a written selection and screening process;
 - (b) If after publication and use of a written selection and screening process there is only one prospective contractor, the Administrator or Administrator's designee may waive the portion of this rule requiring competition;
 - (c) Whenever a portion of this rule is waived, a memorandum signed by the Administrator or Administrator's designee explaining the reasons for the waiver shall be placed in the Division's contract file.
- (5) The contractor shall be selected using the criteria in OAR 461-002-1030.
- (6) Whenever a portion of this rule is waived, a memorandum signed by the Administrator or Administrator's designee explaining the reasons for the waiver shall be placed in the Division's contract file.

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

461-002-1060

Screening of Contractors

- (1) Before the Division establishes a contract with a contractor it will make reasonable attempts to confirm the contractor's qualifications. These reasonable attempts include:
 - (a) Contacting performance references to confirm past history; and
 - (b) Contacting financial references to confirm financial capability.

- (2)(a) If a contractor has a record that indicates a history of repeated failures to perform, including instances of breach of contract or default, the Division may, in its sole discretion, refuse to contract with the contractor;
- (b) The Division may also, in such instances, require enhanced assurances from the contractor. These enhanced assurances shall be at contractor's expense. Acceptable enhanced assurances include, but are not limited to, a bid bond and a performance bond.

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

461-002-1070

Contracts Involving an Emergency or Public Exigency

In the event of an emergency or public exigency such that the public interest would not be served by a delay:

- (1) Nothing in OAR 461-002-1000 through 461-002-1070 shall prohibit the Division from entering a personal services contract with any qualified contractor available.
- (2) A written waiver shall be signed by the Administrator or the Administrator's designee setting forth the reasons that OAR 461-002-1000 through 461-002-1070 cannot be followed in full. The waiver shall be placed in the Division's contract file.

Stat. Auth.: ORS 291.021

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1993, f. 7-30-93, cert. ef. 8-2-93

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 5

ELIGIBILITY

Aid to the Disabled

461-005-0700

Applicability of Rules to Aid to the Disabled Cases

OAR 461-005-0700 through 461-005-0740 apply to any individual who was eligible for and receiving AD in December, 1973 for as long as he or she continues without interruption to meet the requirements of OAR 461-005-0700 through 461-005-0740. This refers to grandfathered clients.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 666(Temp), f. & ef. 1-2-74; PWC 667, f. 3-5-74, ef. 3-25-74; AFS 6-1990, f. & cert. ef. 2-1-90

461-005-0701

Disability

Disability, consisting of a bodily impairment as defined in OAR 461-005-0705, that is both permanent and total, is a factor of eligibility in AD.

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 666(Temp), f. & ef. 1-2-74; PWC 667, f. 3-5-74, ef. 3-25-74

461-005-0705

Bodily Impairment

Bodily impairment is a physical deterioration or diminution, as in utility, strength, etc., resulting from disease, loss, or injury, and sufficiently serious to interfere with the individual's faculties, such as senses, reasoning and mobility. A bodily impairment may be mental in the sense that the brain is a part of the physical body. Such impairment may be organic or functional, static or progressive, and existing at birth or acquired thereafter.

Stat. Auth. ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0710

Permanent

A permanent disability is one likely to continue without substantial improvement throughout life or for an indeterminate period. Permanence is established if the impairment:

- (1) Will not respond substantially to any known therapeutic procedures; or
- (2) Will remain static or become worse unless certain therapeutic procedures are carried out and such procedures are unavailable or inadvisable, or the person reasonably refuses treatment.

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0715

Total

A total disability is one which prevents performance of substantially all the ordinary duties of occupations in which a disabled individual is capable of engaging, having due regard to all verified medical facts and other relevant and material factors, such as age, education, training, work skills an experience, and the individual's ability to function in his particular environment with his impairment. The concept of total is not limited to complete helplessness or invalidism, but refers to the overall ability of the person to perform customary activities necessary to fulfill specified responsibilities, such as employment or homemaking.

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0720

Employment

(1) Employment is any substantial activity in which a person engages for financial gain. Work in a sheltered workshop which is made available because of individual or community interest in or compassion for handicapped persons, but which would not ordinarily exist or which the person would not be able to do in sufficient quantity to maintain himself, is not gainful employment, as used in this rule.

(2) Disability of a man is determined from the standpoint of employment or competition in the labor market, although the individual may not have been employed previously because of this impairment or of this youth. Disability of a married woman without recent employment experience indicating her capacity for employment is determined from the standpoint of capacity to fulfill the role of a homemaker, and the disability of other women is determined from the standpoint of employment or competition in the labor market.

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0725

Homemaker

For the purpose of determining disability, the role of homemaker is considered a full time useful occupation if it includes responsibility for at least one other person. The functions of a homemaker include responsibility for necessary decisions relating to the management of home and family, shopping for food and supplies, performance of customary housekeeping duties, training and care of children, and duties of similar nature.

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0730

Verification

A claim of disability shall be supported by a written report of examination and certification of findings of disability by a physician, licensed by the Board of Medical Examiners, or licensed in another state or territory of the United States having qualifications substantially similar to those of Oregon

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0735

Determination of Disability

The determination of disability to qualify for AD shall be made by the State Review Team, consisting of a physician and a professionally trained social worker appointed by the state administrator, after evaluation of all reports and certifications of physicians and all social summaries pertaining to the A/R and his claimed disability, including additional medical and social information furnished upon request when necessary to aid in making a valid decision as to initial eligibility and whether and when a redetermination shall be made.

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0736

Employment of Special Consultants

The Adult and Family Services Division may employ special consultants from other fields to assist the Review Team in making a determination as to the disability of an applicant.

Stat. Auth.: ORS Ch. 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0740

Reopening AD

Redetermination of disability is not required in reopening an AD case which was closed for an reason not related to disability, if:

- (1) The last decision of the State Review Team indicated that no further determination of disability would be required, or the date set for redetermination has not passed; or
- (2) If the former grant was terminated because of employment and the A/R was not able to fulfill the job requirements more than temporarily because of his disability.

Stat. Auth.: ORS Ch. 411 & 412

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-005-0960

Termination of Payment for Medically Needy, Multnomah County

- (1) Payments to Multnomah County, Oregon for medical care of individuals meeting criteria for eligibility as medically needy for Federal funds under 1115 Project #11-P-903231-06 will be terminated for individuals as eligibility certification expires after December 31, 1980.

(2) No further payments to Multnomah County will be made for services provided after June 30, 1981.

Stat. Auth.: ORS Ch. 414

Stats. Implemented: ORS 411.060

Hist.: AFS 27-1981, f. 6-10-81, ef. 7-1-81

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 6

STANDARDS

461-006-0275

Payment of a Social Security Tax

When the payment to one person for housekeeping and/or personal care exceeds \$50 per calendar quarter, a one-time payment shall be authorized for the employee's and the employer's share of tax on a quarterly basis. This is in addition to the amount allowed for housekeeping or professional care, and notwithstanding the cost limitation established in OAR 461-006-0270. Practical or registered nurses are not included in this provision.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.070

Hist.: PWC 612, f. & ef 6-30-71

461-006-0452

Burial Expenses

(1) The Senior and Disabled Services Division has purchased a plain and decent funeral and disposition of the remains for deceased agency clients for the average costs of about \$1,500 for direct burial and \$750 for direct cremation. This funeral and disposition of the remains includes the following:

- (a) Transportation of the remains to the funeral home not to exceed 25 miles round trip;
- (b) Preparation of the remains; as required by health laws and regulations;
- (c) Clothing, if needed and not provided by the family;
- (d) Professional services and facilities; chapel, church service or graveside services, suitable music, repose room, death certificate, and burial permit;

- (e) Casket of suitable size and material which substantially meets the following criteria: half-lined with fabric and upholstered, bales for carrying, exterior covering of fabric or better material or suitably furnished metal or wood;
- (f) Outer case; standard burial case of wood or other suitable material when required;
- (g) Use of a funeral home vehicle for transporting the remains to the cemetery, crematory or mausoleum, not to exceed 25 miles round trip;
- (h) If requested, at least one car with driver will be provided for transportation of survivors to cemetery, crematory or mausoleum, not to exceed 25 miles round trip;
- (i) Grave space provided will not be in potter's field;
- (j) Opening and closing of the grave will be as required by health laws and regulations.
- (k) Direct cremation includes the minimum services of the funeral home and container for the remains.

(2) The Senior and Disabled Services Division has determined that \$1,500 for direct burial and \$750 for direct cremation is adequate to obtain the funeral and disposition of the remains required under ORS 114.305. After July 1, 1994, in estates where the Senior and Disabled Services Division is a claimant and there would be insufficient assets remaining after any funeral cost to satisfy the agency's claim in full, not more than \$1,500 for burial and \$750 for cremation in estate assets, less any prearranged funeral trust or burial insurance, may be expended for funeral expenses and disposition of the remains of the decedent.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.070

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

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 7

ESTABLISHMENT OF NEED, AUTHORIZATION OF PAYMENT, PAYMENT PROCESS

461-007-0124

Payment of Attorney Fees on SSI Appeals

- (1) If a GA client has been denied by SSI at the initial or reconsideration level, and through the services of legal counsel wins a reversal at a subsequent appeal level, the Division will pay 25 percent of the reimbursement the Division receives from the interim assistance agreement.
- (2) The Division's fee payment for legal services rendered is based on the lesser amount of the following computations:
 - (a) Divide the Division's share of the SSI lump-sum by the total settlement and then multiply the percentage of that total by the valid attorney fees approved by SSA.
 - (b) Multiply the Division's share of the SSI lump-sum by 25 percent.
- (3) If the criteria set forth in Social Security Ruling (SSR 85-3) are met, the fee setting regulation requiring that valid attorney fees be approved by the Social Security Administration is not required. However, the client's attorney must submit an itemized bill detailing legal services rendered in conjunction with the client's representation. Payment for legal services will be paid by the Division at a maximum fixed rate of \$100 per hour. When billing the Division, the client's attorney must provide a copy of the waiver of a fee notice (Form SSA 1696) issued to the Social Security Administration.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

Hist.: AFS 52-1984, f. & ef. 12-24-84; AFS 83-1989, f. 12-28-89, cert. ef. 1-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-007-0760

Issuance of Public Assistance Checks

The Adult and Family Services Division shall draw Public Assistance checks upon these accounts and shall issue them to persons entitled thereto.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

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**Oregon Administrative Rules
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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 12

OPERATION OF THE MOTOR VEHICLE ACCIDENT FUND

461-012-0000

Operation of the Motor Vehicle Accident Fund

- (1) The purpose of the Motor Vehicle Accident Fund (MVAf) is to provide a fund for reimbursement of emergency care and medical services provided to indigent persons injured in motor vehicle accidents on public ways, streets, or highways in Oregon.
- (2) MVAf shall operate under the authority, duties, and limitations established in ORS Chapter 445.
- (3) MVAf shall process all claims received in accordance with the following procedures:
 - (a) MVAf shall review each claim submitted to verify:
 - (A) That the claimant is an eligible medical provider as defined in ORS 445.010(3). MVAf shall reject claims submitted by parties not defined as eligible;
 - (B) Whether or not the injured person was eligible for medical benefits under Title XIX of the Social Security Act. If the person was eligible for Title XIX coverage, MVAf shall reject the claim and advise the claimant to submit a claim to the Adult and Family Services Divisions for Title XIX claim processing;
 - (C) Whether or not the claim form was properly completed and signed by the claimant. MVAf shall return incomplete forms or forms not properly signed to the claimant;
 - (D) That the form indicates that the accident occurred on a public way, street, or highway in Oregon. MVAf shall reject as ineligible all claims indicating otherwise;
 - (E) That the claim meets all other requirements specified under ORS 445.140.
 - (b) MVAf shall pay all accepted claims to the extent that MVAf has sufficient funds available. If sufficient funds are not available, MVAf shall establish a payment file for any case based on the date the first acceptable claim form was received. As sufficient funds then become available, MVAf shall pay all claims according to the date the file was thus established, subject to the provisions of subsection (e) of this section;

(c) When more than one claimant in a claimant category files a claim, MVAF shall pay all accepted claims when sufficient funds are available, in accordance with the following procedure:

(A) For hospitals, MVAF shall pay up to the maximum amount provided under law for hospitals to the hospital providing the first service. Any remaining balance shall be available to other treating hospitals in the order services were given. This same policy shall apply to ambulances and to all other claimant categories except doctors;

(B) For doctors, if the aggregate level of accepted claims exceeds the maximum payment amount, MVAF shall prorate all accepted claims. For prorating purposes, MVAF shall reduce all claims in excess of the maximum payment amount to that level;

(C) When MVAF receives a claim after the foregoing distribution is made and the claim is accepted, MVAF shall pay the claim only to the extent that sufficient funds remain available within the limits for the claimant category. Once the claim limit for the claimant category is reached, MVAF shall make no further payment.

(d) The claimant shall be responsible for determining if a third party resource is available to pay for medical services provided to the injured person and for making reasonable effort to collect from any and all available third party resources and/ or from the injured person. The claimant shall also be responsible for determining if the patient was indigent as defined in ORS 445.010(7) and 445.020;

(e) If any claimant indicates that recovery from a third party resource is pending, such as in a pending lawsuit, MVAF shall suspend payment of the claim until the issue of a third party payment is settled:

(A) If settlement results in a recovery for medical expenses in the injured person's behalf, MVAF shall pay the claimant only to the extent that the recovery is less than the maximum amount to which the claimant would be entitled under ORS 445.060 and 445.070. MVAF shall make such payment in accordance with subsection (b) of this section;

(B) If settlement does not result in recovery for medical expenses in the injured person's behalf and MVAF otherwise approves the claim for payment, MVAF shall pay the claim in accordance with subsection (b) of this section.

(f) If MVAF has paid a claim and recovery from a third party resource subsequently becomes possible, the claimant shall be responsible for making reasonable effort to collect from the third party resource. The claimant shall be responsible for reimbursing MVAF from any third party recoveries subsequently collected, up to the amount paid by MVAF on the claim.

Stat. Auth.: ORS Ch. 445

Stats. Implemented: ORS 411.060

Hist.: AFS 88-1985(Temp), f. & ef. 12-31-85; AFS 25-1986, f. & ef. 3-17-86

461-012-0100

Definitions

For the purposes of OAR 461-012-0100 through 461-012-0150, the following definitions shall apply:

- (1) "LEMLA" means the Law Enforcement Medical Liability Account.
- (2) "LEMLA Patient" means a person who has suffered injuries related to law enforcement activity.
- (3) "Injuries Related to Law Enforcement Activity" means injuries sustained prior to booking, citation in lieu of arrest or release instead of booking that occur during and as a result of efforts by a law enforcement officer to restrain or detain, or to take or retain custody of, the individual. Whether injuries related to law enforcement activity have occurred will be

determined by the law enforcement agency.

(4) "Release Date" means the date the LEMLA patient was released from actual physical custody, as determined by the law enforcement agency.

(5) "Cost of Such Services" means "usual charge" as defined in General Rules by the Office of Medical Assistance Programs.

(6) "Hospital" means a hospital as defined in General Rules by the Office of Medical Assistance Programs.

(7) "Overpayment" means payment made by LEMLA to a claimant in excess of the amount due for the covered services and items billed.

(8) "Claimant" means a Medicaid provider.

(9) "Medicaid Provider" means a provider who has been issued a provider number by the Department of Human Resources' Office of Medical Assistance Programs, and is not currently subject to sanction(s) by the Office of Medical Assistance Programs.

(10) "Prior Payment Amount" means the total of all payments received by the claimant from all other sources, including the LEMLA patient, prior to submitting a LEMLA claim.

(11) "LEMLA Claim Amount" means the total cost of such services provided to a LEMLA patient which are directly connected to injuries related to law enforcement activity. It shall not include any charges for services provided to a LEMLA patient for a preexisting disease or condition, or services that are unrelated to the "injuries related to law enforcement activities".

Stat. Auth.: Ch. 778, Oregon Law 1991 & Ch. 196, Oregon Law 1993

Stats. Implemented: ORS 411.060

Hist.: AFS 1-1992, f. 1-14-92, cert. ef. 2-1-92; AFS 6-1992, f. & cert. ef. 3-9-92; AFS 24-1993, f. 10-27-93, cert. ef. 11-1-93

461-012-0150

Operation of the Law Enforcement Medical Liability Account

(1) The purpose of the LEMLA is to provide a fund to reimburse a claimant for emergency medical services provided to a LEMLA patient. LEMLA will commence paying for medical services for injuries that occur on or after July 1, 1992.

(2) LEMLA shall operate under the authority, duties, and limitations established in Chapter 778, Oregon Laws 1991, as amended by Chapter 196 of the Oregon Laws 1993.

(3) The time limit for submitting claims to LEMLA is one year after the date of injury. If a claimant has been paid by a LEMLA patient's insurer or health care contractor and the LEMLA patient's insurer or health care contractor subsequently demands return of the payment, a claimant shall have 180 days from the date of the demand letter to bill LEMLA, or 1 year from the date of injury, whichever is later.

(4) LEMLA shall process all claims received in accordance with the following procedures:

(a) The claim shall be date stamped on the date received by LEMLA;

(b) LEMLA shall review each claim submitted to verify that the claim contains all of the following required information:

(A) The LEMLA claim form, with the following information:

- (i) Certification by an authorized representative of the law enforcement agency involved with an injury that the injury is related to law enforcement activity;
- (ii) The release date, if any, as determined by the law enforcement agency. If the LEMLA patient has not yet been released, so state on the LEMLA claim form;
- (iii) LEMLA patient's name;
- (iv) Prior payment amount;
- (v) Date of injury;
- (vi) Claimant's Medicaid provider number;
- (vii) Claimant's name;
- (viii) LEMLA claim amount;
- (ix) Cause/Nature of injury.

(B) Attached to the LEMLA form, the following information:

- (i) Documentation which demonstrates the claimant has billed the LEMLA patient or the LEMLA patient's insurer or health care contractor for the charges or expenses owed to the claimant and that the claimant has made a reasonable effort to collect from the LEMLA patient or the LEMLA patient's insurer or health care contractor;
- (ii) A copy of the hospital/provider billing document which shows the usual charge and date of service.
- (c) LEMLA will reject claims that do not contain all of the information required in subsection (4)(b) of this rule;
- (d) LEMLA shall review the date of injury. LEMLA will reject any claim where the injuries related to law enforcement activity do not occur on or after July 1, 1992;
- (e) LEMLA shall review the documentation of reasonable collection effort. If less than 45 days have lapsed since billing the LEMLA patient or the LEMLA patient's insurer or health care contractor, the claim may be rejected;
- (f) LEMLA shall review the date of injury. If the date stamped on the claim under subsection (4)(a) of this rule is more than one year after the date of injury, the claim shall be rejected. The 1 year time limit may not apply if the provisions of section (3) of this rule apply with regards to an insurer or health care contractor demanding repayment of a previously paid claim.
- (5) Using the LEMLA claim amount, LEMLA shall pay claimants, subject to any adjustment made under section (6) of this rule, according to the following:
 - (a) For hospitals, by the current "Hospital Fee Schedule-Adjusted Cost/Charge Ratios for Oregon Hospitals", established by the Director of the Department of Consumer and Business Services;
 - (b) For all Medicaid providers, except hospitals, LEMLA shall pay 75 percent of the LEMLA claim amount.
- (6) After determining the amount under section (5) of this rule, LEMLA shall add the amount received in section (7) of this rule. If the total is more than the usual charge, LEMLA will reduce the amount of its payment by the amount in excess of the usual charge.
- (7) The claimant shall be responsible for making reasonable effort to collect from the LEMLA patient or the LEMLA

patient's insurer or health care contractor. Claimants shall report any and all collections made when a claimant submits a claim to LEMLA for payment.

(8) If LEMLA has paid a claimant and the claimant subsequently receives payment from any other source, the claimant shall repay LEMLA the amount received, minus the difference between the usual amount billed and the amount LEMLA paid. This means claimants are entitled to reimburse themselves for the amount LEMLA did not pay, with the excess due LEMLA as an overpayment. The overpayment is due and payable to LEMLA within 30 days after the claimant has received the funds from the other source. Payment shall be by check.

(9) LEMLA will continue to pay for medical services for injuries related to law enforcement activities while the LEMLA patient is incarcerated. Upon release of the LEMLA patient from actual physical custody, LEMLA will no longer pay for further medical expenses incurred. If the LEMLA patient is cited in lieu of arrest or released instead of booked, LEMLA will no longer pay for further medical expenses upon discharge or release from the hospital or other medical facility.

(10) LEMLA shall pay all accepted claims to the extent that LEMLA has sufficient funds available, subject to the maximum limit for payment of expenses authorized by the Legislature. LEMLA shall monitor the expenses and if LEMLA determines that the authorized limit may be exceeded, or that insufficient funds are available, LEMLA will take the following actions:

- (a) LEMLA will continue to accept claims and date stamp them in the order the claims are received. LEMLA will then suspend further processing of the claim;
- (b) LEMLA will notify each claimant that the claim has been suspended, and the reason for the action;
- (c) LEMLA will maintain a file of suspended claims and await further legislative direction regarding the disposition of the claims.

Stat. Auth.: Ch. 778, Oregon Law 1991 & Ch. 196, Oregon Law 1993

Stats. Implemented: ORS 411.060

Hist.: AFS 1-1992, f. 1-14-92, cert. ef. 2-1-92; AFS 6-1992, f. & cert. ef. 3-9-92; AFS 24-1993, f. 10-27-93, cert. ef. 11-1-93; AFS 18-1995, f. & cert. ef. 8-1-95

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**Oregon Administrative Rules
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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 14

MEDICAL -- SURGICAL SERVICES

Rural Health Clinic Services

461-014-0400

Definitions

- (1) "Rural Health Clinic" is a clinic recognized by Medicare as meeting federal requirements for payment for rural health clinic services.
- (2) "Rural Health Clinic Services" are:
 - (a) Physicians' services, including required physician supervision of nurse practitioners and physician assistants, and services and supplies furnished incidental to a physician's professional services; or
 - (b) Services of physician assistants and nurse practitioners; and services and supplies furnished incidental to a nurse practitioner's or physician assistant's services; or
 - (c) Visiting nurse services on a part-time or intermittent basis to home-bound patients (limited to areas in which there is a shortage of home health agencies).
- (3) "Visit" is a face-to-face encounter between a client of this Division and a health professional associated with a rural health clinic in the provision of medical services provided by the clinic. Encounters with more than one health professional and multiple encounters with the same health professional that take place on the same day and at a single location constitute a single visit.

Stat. Auth.: ORS Ch. 414
Stats. Implemented: ORS 411.060
Hist.: AFS 58-1982, f. & ef. 7-1-82

461-014-0405

Rate of Payment

The Division will pay rural health clinics an all-inclusive rate per visit. On an interim basis, reimbursement will be at the interim per visit rate computed by Medicare. Payment will be retroactively adjusted based on Medicare's determination of actual cost per visit.

Stat. Auth.: ORS Ch. 414

Stats. Implemented: ORS 411.060

Hist.: AFS 58-1982, f. & ef. 7-1-82

461-014-0410

Billing

Billings to the Division for all Division clients served by a rural health clinic must be in accordance with these rules, using the single unique procedure code designated by the Division for that particular clinic.

Stat. Auth.: ORS Ch. 414

Stats. Implemented: ORS 411.060

Hist.: AFS 58-1982, f. & ef. 7-1-82

Maternity Management Services

461-014-0574

Medical Assistance Programs

- (1) Title XIX Programs: Clients in these programs have the full range of covered medical services as described in General Rules, and other practitioner guides.
- (a) 1 -- Oregon Supplemental Income Program (aged);
 - (b) 2 -- Aid to Dependent Children;
 - (c) 3 -- Oregon Supplemental Income Program (Blind);
 - (d) 4 -- Oregon Supplemental Income Program (Disabled);
 - (e) 19 -- Children in Foster Care Eligible for Title XIX;
 - (f) GA -- Children in Foster Care Not Eligible for Title XIX;
 - (g) 82 -- Aid to Dependent Children (Unemployed Parent);
 - (h) A1 -- Oregon Supplemental Income Program (Title XIX Only);

- (i) B3 -- Oregon Supplemental Income Program (Nursing Home Cases);
- (j) C5 -- Medical Only;
- (k) D4 -- Oregon Supplemental Income Program (Non-Nursing Home OSIP or SIP);
- (l) M2 -- Refugee Aid to Dependent Children (Unemployed Parent);
- (m) M5 -- Medically Needy/Day Care;
- (n) R1 -- Supplemental Security Income (Refugee Aged);
- (o) R2 -- Refugee Eligible for Aid to Dependent Children;
- (p) R3 -- Supplemental Security Income (Refugee Blind);
- (q) R4 -- Supplemental Security Income (Refugee Disabled);
- (r) V2 -- All Other Refugee Eligible for Resettlement Program.

(2) General Assistance Program: 5 -- Clients in this program have the full range of covered medical services with the following exceptions:

- (a) No reimbursement for inpatient hospital services;
- (b) Medical Management Program limitations apply.

(3) Program for Children in CSD Foster Care who are not Title XIX Eligible: GA -- Children in this program have the full range of covered medical services as described in General Rules, Hospital Services Guide and other practitioner guides.

(4) Medically Needy Programs: P2, M5:

- (a) Clients in this program can have a "spend-down" requirement. This means that sometimes the client is responsible for a portion of provider charges. You will receive an AFS 1238E (an example follows). This form will tell you how much of your charges are the client's responsibility. Always attach this form to your billings. If you need more information about this program, call Provider Services Liaison in Salem;
- (b) If you need specific information about a client's "spend-down" responsibility, call the client's branch worker. The phone number is listed on the Medical Card. Medical cards carry a message; "COVERAGE THIS MONTH ONLY".

(5) QMB/QMM Medicare Clients:

- (a) Under the Catastrophic Health Care bill, two new groups of Medicare Beneficiaries became eligible for Medicaid reimbursement of some services effective February 1, 1989;
- (b) Qualified Medicare Beneficiaries (QMBs): There is no reimburse for services not covered by Medicare. Medical cards carry the message; "MCARE SERVICES AT AFS RATES";
- (c) Qualified Medicare-Medicaid Beneficiaries (QMMs): AFS reimburses for Medicare covered services and Medicaid covered services. Medical cards carry the message; "MCARE/ AFS SERVICES AT AFS RATES".

Stat. Auth.: ORS 411.170 & 414.065

Stats. Implemented: ORS 411.060

Hist.: AFS 71-1989, f. & cert. ef. 12-1-89

461-014-0575

HMOs, PCOs and DCOs

(1) AFS has contracted with Health Maintenance Organizations (HMOs) and Physician Care Organizations (PCOs) for certain medical services on a prepaid basis:

(a) HMOs provide a comprehensive package of health care benefits including physician, laboratory, x-ray, Medichex (EPSDT), hospital, pharmacy, and case management services;

(b) PCOs provide physician, laboratory, x-ray, Medichex (EPSDT), and case management services. Other services, such as chiropractic, speech therapy, or physical therapy, are optional services that may be covered by a PCO;

(c) DCOs provide dental care benefits.

(2) Maternity Management services are not covered by HMOs, PCOs, or DCOs. This means that these services may be performed without the prior authorization from the health plan listed on the patient's Medical Card. AFS is billed directly for these services.

(3) Medical Cards for HMO, PCO, or DCO Clients: The AFS Medical Card indicates a client has HMO or PCO coverage when the name and address of the HMO or PCO is printed in the "Potential First Liability Information" column. The "A", "B", or "C" in the "First Liability" column across from the client's name refers to the "Potential First Liability Information" column which lists the client's health plan. A message "See HEALTH PLAN FOR NEEDED CARE" is printed on the Medical Card below the name of each person enrolled. Clients may or may not have a third party resource. Note that "A" in the "First Liability" column refers to the insurance information in Box A.

Stat. Auth.: ORS 411.170 & 414.065

Stats. Implemented: ORS 411.060

Hist.: AFS 71-1989, f. & cert. ef. 12-1-89

461-014-0576

Health Insurance Claim Form (HCFA-1500)

(1) The HCFA-1500 is a required billing form. Completed HCFA-1500 forms must be sent to: Adult and Family Services Division, Salem, Oregon 97309. The following information must be entered on the HCFA-1500:

(a) Patient's Name: The name as it appears on the Medicaid Medical Card;

(b) Insured's Medicaid I.D. No.: The 8 digit number from the Medical card;

(c) Diagnosis or Nature of Illness or Injury (DX): Enter primary diagnosis (DX) first, enter subsequent DX as needed. Only the diagnosis is required; a narrative description is not necessary:

(A) V22 = Normal Pregnancy;

(B) V239 = Unspecified High-Risk Pregnancy;

(C) V653 = Dietary Surveillance/Counseling.

- (d) Date of Service: Must be numeric (04/30/88), or enter consecutive days if service exceeds one day;
- (e) Place of Service:
 - (A) 3 = Practitioner's Office;
 - (B) 4 = Patient's Home;
 - (C) B = Other medical/surgical facility.
- (f) Procedure Code: Use only the procedure codes listed in the guide;
- (g) Diagnosis Code: Use 1, 2, 3, or 4 to indicate the line reference number from Diagnosis or Nature of Illness or Injury;
- (h) Charges: Enter a charge for each line item;
- (i) Days or Units: Must match the number of days/units in date of service;
- (j) Type of service Codes (TOS):
 - (A) 1 = Physician/Health Department;
 - (B) W = Physician Assistant;
 - (C) N = Nurse Practitioner;
 - (D) S = Registered Nurse/Social Worker/Dietary Counselor/ PCO or HMO;
 - (E) Y = Prenatal Clinic.
- (k) Performing Provider: Enter your AFS performing provider number here unless it is used in subsection (o) of this section;
- (l) Billing date: Date must be on or after last date of service;
- (m) Total Charge: Add the charges and enter the total dollar amount;
- (n) Amount Paid: Enter the total amount paid from other sources;
- (o) Provider Number: Enter your AFS billing or provider number here.
- (2) The following information must be entered on the HCFA-1500 when:
 - (a) Other Health Insurance: The client has other health insurance. This information is listed on the Medical Card; use the TPR codes in section (3) of this rule;
 - (b) SAIF/Accident Field: The condition was related to an accident or injury;
 - (c) If any Emergency check here: If the service was performed as an emergency;
 - (d) Name of Referring Physician or Other Source: If this service is the result of a referral, enter the AFS provider number of the referring (requesting) provider. If this service is the result of an HMO or PCO referral, enter the AFS provider number of the HMO or PCO Plan (not the practitioner) here;
 - (e) Your Patient's Account Number: Optional -- if you enter your patient account number here, AFS will print this information on your Remittance Advice.

(3) Third Party Resource Explanation Codes, or "TPR" Codes (Use in Health Insurance Field on the HCFA-1500):

(a) Single Insurance Coverage:

(A) MD -- Medicare Billed -- Disposition Delayed;

(B) UD -- Service Under Deductible;

(C)NC -- Service Not Covered by Insurance Policy;

(D)PN -- Patient Not Covered by Insurance Policy;

(E)IC -- Insurance Coverage Canceled/ Terminated;

(F)IL -- Insurance Lapsed or Not in Effect on Date of Service;

(G)IP -- Insurance Payment Went to Policyholder;

(H) PP -- Insurance Payment Went to Patient;

(I)NA -- Service Not Authorized or Prior Authorized by Insurance;

(J)NE -- Service Not Considered Emergency by Insurance;

(K)NP -- Service Not Provided by Primary Care Provider/ Facility;

(L)MB -- MaximumBenefitsUsedfor Diagnosis/Condition;

(M)RI -- Requested Information Not Received by Insurance from Patient;

(N)RP -- Requested Information Not Received by Insurance from Policyholder;

(O)MV -- Motor Vehicle Accident Fund Maximum Benefits Exhausted;

(P)OT -- Other (if above codes do not apply, include detailed information of why no TPR payment was made).

(b)Multiple Insurance Coverage:

(A)MP -- Primary Insurance Paid -- Secondary Paid;

(B)SU -- Primary Insurance paid -- Secondary Under Deductible;

(C)MU -- Primary and Secondary Under Deductible;

(D)PU -- Primary Insurance Under Deductible -- Secondary Paid;

(E)SS -- Primary Insurance Paid -- Secondary Service Not Covered;

(F)SC -- Primary Insurance Paid -- Secondary Patient Not Covered;

(G)ST -- Primary Insurance Paid -- Secondary Insurance Cancelled/Terminated;

(H)SL -- Primary Paid -- Secondary Lapsed or Not in Effect;

(I)SP -- Primary Paid -- Secondary Payment Went to Patient;

- (J)SH -- Primary Paid -- Secondary Payment Went to Policyholder;
- (K)SA -- Primary Paid -- Secondary Denied -- Service Not Authorized or Prior Authorized;
- (L) SE -- Primary Paid -- Secondary Denied -- Services Not Considered Emergency;
- (M)SF -- Primary Paid -- Secondary Denied -- Service Not Provided by Primary Care Provider/ Facility;
- (N)SM -- Primary Paid -- Secondary Denied -- Maximum Benefits Used for Diagnosis/Condition;
- (O)SI -- Primary Paid -- Secondary Denied -- Requested Information Not Received from Policyholder;
- (P)SR -- Primary Paid -- Secondary Denied -- Requested Information Not Received from Patient.
- (Q)MC -- Service Not Covered by Primary or Secondary Insurance;
- (R)MV -- Motor Vehicle Accident Fund Maximum Benefits Exhausted;
- (S)MO -- Other (if above codes do not apply, include detailed information of why no TPR payment was made).

Stat. Auth.: ORS 411.170 & 414.065

Stats. Implemented: ORS 411.060

Hist.: AFS 71-1989, f. & cert. ef. 12-1-89

461-014-0577

Medicare/Medicaid Claims

- (1) If a patient has both Medicare and Medicaid Coverage, providers must bill Medicare first.
- (2) AFS payment will be based on either Medicare's maximum allowable rate or AFS's maximum allowable rate, whichever is the lesser.
- (3) Send all completed AFS 505 forms to Adult and Family Services Division, Salem, Oregon.

Stat. Auth.: ORS 411.170 & 414.065

Stats. Implemented: ORS 411.060

Hist.: AFS 71-1989, f. & cert. ef. 12-1-89

461-014-0578

How to Complete the AFS-505

- (1) The following information must be entered on the AFS-505:
 - (a) Patient's Name: The name as it appears on the Medicaid Medical Card;
 - (b) Insured's Medicaid I.D. No.: The 8 digit number from the Medical card;
 - (c) Insured's Group No.: The Medicare number as it appears on the client's Medicare Identification Card;

(d) Diagnosis or Nature of Illness or Injury (DX): Enter primary diagnosis first, enter subsequent DX as needed. Only a diagnosis is required; a narrative description is not necessary:

(A) V22 = Normal Pregnancy;

(B) V239 = Unspecified High-Risk Pregnancy;

(C) V653 = Dietary Surveillance/Counseling.

(e) Date of Service: Must be numeric (04-30-88), or enter consecutive days if service exceeds one day;

(f) Place of Service: Where the Service was provided:

(A) 3 = Practitioner's Office;

(B) 4 = Patient's Home;

(C) B = Other Medical/Surgical Facility.

(g) Procedure Code: Use only the procedure codes listed in the guide, Maternity Management Services;

(h) Diagnosis Code: Use 1, 2, 3, or 4 to indicate the line reference number from Diagnosis or Nature of Illness or Injury Field;

(i) Days or Units: Must match the number of days/units in date of service;

(j) Type of Service Codes (TOS):

(A) 1 = Physician/Health Department;

(B) W = Physician Assistant;

(C) N = Nurse Practitioner;

(D) S = Registered Nurse/Social Worker/Dietary Counselor/ PCO or HMO;

(E) Y = Prenatal Clinic.

(k) Charges Billed Medicare: Enter the total dollar amount you billed Medicare for the service you provided;

(l) Medicare's Allowed Charges: Enter the dollar amount Medicare allows for this service;

(m) Provider Number: Enter your AFS provider number here unless it is used in field (q);

(n) Total Charge: Add the charges and enter the total dollar amount billed to Medicare;

(o) Medicare Total Payment: Enter the total dollar amount paid by Medicare for the services provided;

(p) Balance Due: Subtract the amounts in (Field 28) Medicare Total Payments, and (Field 30) Insurance Other than Medicaid/Medicare from (Field 27) Total Charge then enter the balance in this field. An amount must be entered in this field;

(q) Physician or Supplier Name, Address, Zip Code and Phone No: Only your AFS provider number is required.

(2) The following information is required when applicable:

(a) Other Health Insurance Coverage: If no payment was received from Medicare, enter the reason no payment was made. Select a 2 digit "reason" code from the Third Party Resource (TPR) codes listed in OAR 461-014-0576 and put it in this field. Be sure that this "reason" code is the first entry, followed by the name of the Third Party Resource (Medicare).

EXAMPLE: Nothing was paid because Medicare did not cover the service. Use "reason code" NC, Not Covered, enter: NC -- Medicare. Do not mail in the Medicare Explanation of Benefits with the claim;

(b) Was Condition Related to: Complete if service is related to an injury/accident;

(c) If An Emergency Check Here: If the service was performed as an emergency;

(d) Name of Referring Physician or Other Source: If this service is the result of a referral, enter the AFS provider number of the referring (requesting) practitioner. If this service is the result of an HMO or PCO referral, enter the AFS provider number of the HMO/PCO Plan (not the practitioner) here;

(e) Insurance Other Than Medicaid/Medicare: Enter any amount paid by another resource, other than Medicare, such as other health insurance, or "Spend-Down" (client responsibility). If the amount is zero, put in a "0";

(f) Your Patient's Account No.: Optional -- If you enter your patient account number for your office records, any combination of 12 digits (letters or numbers) you enter will print on your Remittance Advice.

Stat. Auth.: ORS 411.170 & 414.065

Stats. Implemented: ORS 411.060

Hist.: AFS 71-1989, f. & cert. ef. 12-1-89

461-014-0579

Adjustment Requests

(1) Overpayments, underpayments, and payments received after AFS has paid a claim can be resolved through the adjustment process. Only paid claims can be adjusted. If no payment was made, the claim must be resubmitted using a HCFA-1500 or when appropriate an AFS-505.

(2) Much of the information required on the Adjustment Request form is printed on the Remittance Advice. Documentation may be submitted to support the request. Adjustment Requests must be submitted in writing to Adult and Family Services, Salem, Oregon.

(3) How to complete an adjustment request:

(a) Check the appropriate box if this request is an underpayment (AFS paid too little) or an overpayment (AFS paid too much);

(b) Attach needed documentation;

(c) Mail your Adjustment Request to the address on the form;

(d) Enter the 13 digit Internal Control Number (ICN) space. This number can be found on the Remittance Advice (RA);

(e) Enter the client's AFS identification number. This number can be found on the Remittance Advice (RA), or on the client's Medical ID Card;

(f) Enter the client's name. Use the same name as is shown on the Medical ID Card;

(g) Enter your provider name. It is always six digits;

(h) Enter your provider name;

(i) Enter the date which is printed at the top of the Remittance Advice (RA);

(j) Enter the page number from the upper right-hand corner of the Remittance Advice (RA);

(k) Description -- Possible areas you might want to change are listed. Only check those you want to change:

(A) Place of Service:

(i) 3 = Practitioner's Office;

(ii) 4 = Patient's Home;

(iii) B = Other medical/surgical facility.

(B) Type of Service:

(i) 1 = Physician/Health Department;

(ii) W = Physician's Assistant;

(iii) N = Nurse Practitioner;

(iv) S = Registered Nurse/Social Worker/Dietary Counselor/ PCO or HMO;

(v) Y = Prenatal Clinic.

(C) Quantity/Unit -- The number of services you are billing;

(D) Billed Amount -- The amount you billed AFS;

(E) Procedure Code -- The procedure code from the HCFA-1500, or the Remittance Advice;

(F) Insurance Payment/Patient Liability -- The payments from other sources or any payment received after submitting claim to AFS;

(G) Other -- Check if none of the above address your problems.

(l) Line # -- List the line number from the original claim (HCFA-1500) you are now adjusting;

(m) Service Date -- Enter the date the service was performed;

(n) Wrong Info -- Enter the incorrect information submitted on the original claim in this column;

(o) Right Info -- Enter the corrected information in this column;

(p) Remarks -- Enter any additional information regarding your request;

(q) Provider's Signature -- The provider or other authorized personnel must sign;

(r) Date -- Enter the date this form was completed.

Stat. Auth.: ORS 411.170 & 414.065

Stats. Implemented: ORS 411.060

Hist.: AFS 71-1989, f. & cert. ef. 12-1-89

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 15

OREGON MEDICAL ASSISTANCE PROGRAM

Hospital Services

461-015-0010

Treatment and Services

Payment will be restricted to those services determined to be the responsibility of the Division under law. Payment will also be restricted by rules and regulations established by the Division.

Stat. Auth.: ORS Ch. 411 & 414

Stats. Implemented: ORS 411.060

Hist.: PWC 790, f. & cert. ef. 4-1-76; AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 60-1982, f. & ef. 7-1-82; AFS 60-1982, f. & ef. 7-1-82

461-015-0095

Diagnostic Procedures

The Division will make payment only for those diagnostic services directly related to the medical condition for which the client is treated. If the prescribed treatment is not covered by the Division, diagnostic and other services related to the non-covered treatment will not be covered, unless otherwise specified in Division rules.

Stat. Auth.: ORS Ch. 411 & 414

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 37-1983(Temp), f. & ef. 7-015-83; AFS 1-1984, f. & ef. 1-9-84; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1987, f. & ef. 10-1-87

461-015-0125

Hospital Benefit Days for Substance Abuse

Payment is not available for inpatient or outpatient rehabilitative services for alcohol or drug addiction.

Stat. Auth.: ORS Ch. 411 & 414

Stats. Implemented: ORS 411.060

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 33-1980(Temp), f. 6-30-80, ef. 7-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 37-1983(Temp), f. & ef. 7-015-83; AFS 1-1984, f. & ef. 1-9-84; AFS 46-1987, f. & ef. 10-1-87

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 23

**PHYSICAL THERAPY, CHIROPRACTIC,
NATUROPATHIC, AND PODIATRY SERVICES**

Chiropractic Services

461-023-0205

Purpose

In conjunction with the General Rules of Oregon Medical Assistance Programs these rules are established by the Adult and Family Services Division for the purpose of supervising and controlling payment for chiropractic services provided to Adult and Family Services Division clients eligible to receive such services under the provisions of Oregon Revised Statutes.

Stat. Auth.: ORS Ch. 414

Stats. Implemented: ORS 411.060

Hist.: PWC 737(Temp), f. 6-30-75, ef. 7-1-75; PWC 754, f. 9-5-75, ef. 10-1-75; PWC 773, f. 1-2-76, ef. 1-2-76; AFS 31-1979, f. & ef. 10-1-79; AFS 16-1981, f. 3-6-81, ef. 4-1-81; AFS 32-1982, f. 4-26-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices.

Naturopathic Services

461-023-0300

Purpose

In conjunction with the General Rules for Oregon Medical Assistance Programs these rules are established by the Adult and Family Services Division for the purpose of supervising and controlling payment for naturopathic services provided to Adult and Family Services Division clients eligible to receive such services under the provisions of Oregon Revised Statutes.

Stat. Auth.: ORS Ch. 414

Stats. Implemented: ORS 411.060

Hist.: AFS 31-1979, f. & ef. 10-1-79; AFS 34-1982, f. 4-26-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices.

461-023-0301

Billing

- (1) Only procedure codes listed in Naturopathic Services which most accurately identify the service(s) performed shall be used when billing the Division.
- (2) The provider shall not fragment billings under multiple procedure codes when the total array of services performed are included in the identification for a single procedure code.
- (3) Billing for laboratory services will be in accordance with the following criteria:
 - (a) Laboratory services provided for Medical Assistance recipients eligible for Medicare Part B benefits are reimbursable by Medicare at 100% of the maximum allowable by Medicare and Medicaid. Therefore, charges for those services are billed only to Medicare, they are not to be billed to the Division;
 - (b) Charges may only be billed by and paid to the performing provider;
 - (c) Pass-along charges from the performing provider to another provider for billing do not qualify for reimbursement, and are not to be billed to the Division;
 - (d) Services performed by an independent clinical laboratory may be billed to the Division only if the laboratory is certified by Medicare to perform those specific procedures.
- (4) The practitioner shall not bill for those items normally included in the provision of services, e.g., sterile set ups, cleaning agents, examination utensils, lubricants, anesthetics, and bandages.

Stat. Auth.: ORS Ch. 411 & 414

Stats. Implemented: ORS 411.060

Hist.: AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85

461-023-0310

Professional Review

Invoices will be reviewed by a consultant approved by the Oregon Association of Naturopathic Physicians prior to being authorized for payment. Only the consultant can authorize payment for services. The attending naturopath may be requested to submit clinical evidence to support the request for payment.

Stat. Auth.: ORS Ch. 414

Stats. Implemented: ORS 411.060

Hist.: AFS 31-1979, f. & ef. 10-1-79; AFS 34-1982, f. 4-26-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices.

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 25

GENERAL

461-025-0300

General

- (1) OAR 461-025-0300 through 461-025-0385 apply to Department of Human Resources contested case hearings involving benefits in public assistance, medical, and FS programs. These OARs also apply in proceedings to collect an amount owed to the Department under ORS 293.250, and in proceedings to collect support or to recover amounts owed to the State of Oregon in any situation where a right to a DHR hearing is specifically authorized under ORS Chapter 25 or under OAR Chapter 461, Division 195.
- (2) Medical provider appeals and administrative reviews involving Medical Assistance Programs are governed by OAR 410-120-1560 through 410-120-1840.
- (3) Subject to the approval of the Attorney General, AFS employees are authorized to appear on behalf of the agency in the following types of hearings conducted by the Division:
- (a) Public assistance;
 - (b) Employment/Education-Related Day Care; and
 - (c) Food Stamp programs.

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

461-025-0305

Definitions

In Division 25 of OAR 461, the following terms have these meanings:

- (1) "Claimant" means a person who has requested a hearing, or whose authorized representative made the request on behalf of the person. In General Assistance cases, claimant's representative must either be an attorney or meet the provisions of ORS 183.450.
- (2) "Division" means the office or division of the Department of Human Resources responsible for the action being contested. In support enforcement cases Division also means the Support Enforcement Division (SED) of the Department of Justice or the District Attorney of any Oregon county enforcing a support obligation.
- (3) "Division notice" means the notice that informs the claimant that the Division is taking an action that adversely affects the claimant's grant or benefits or asserts that an overpayment or overissuance has occurred. In support enforcement cases, "Division notice" also means a notice sent by the Oregon Department of Revenue or SED informing a claimant of the Division's intention to apply a tax refund to the obligor's delinquent account.
- (4) "Division representative" means a person who represents the Division in the hearing and presents the Division's position.
- (5) "Good cause" means a circumstance beyond the claimant's or claimant's representative's control.
- (6) "Intentional Program Violation" (IPV) means:
 - (a) In the Food Stamp Program:
 - (A) An individual has intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts; or
 - (B) Intentionally committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations or any state statute relating to the use, presentation, transfer, acquisition, or possession of FS benefits.
 - (b) In the ADC Program:
 - (A) An individual has, for the purpose of establishing or maintaining the family's eligibility for aid under Oregon's ADC Plan or for increasing (or preventing a reduction in) the amount of such aid,
 - (B) Intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts, or
 - (C) Intentionally committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- (7) "Legal argument" is defined as follows:
 - (a) "Legal argument" includes arguments on:
 - (A) The jurisdiction of the Division to hear the contested case;
 - (B) The constitutionality of a statute or OAR or the application of a constitutional requirement to the Division; or
 - (C) The application of a court precedent to the facts of the particular contested case proceeding.
 - (b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:
 - (A) The application of facts to the statutes or OARs directly applicable to the issues in the contested case;
 - (B) Comparison of prior actions of the Division in handling similar situations;

- (C) The literal meaning of the statutes or OARs directly applicable to the issues in the contested case; and
- (D) The admissibility of evidence or the correctness of procedures being followed.
- (8) "Party" means the claimant, the obligee in a support hearing under ORS 25.020, or the Division.
- (9) A "Request for hearing" is a clear expression, oral or written, by an individual or representative that the person wishes to appeal a Division decision or action or wishes to have the decision considered by a higher authority.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.047

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

461-025-0310

Hearing Requests

- (1) A claimant may have a hearing under these OARs if any of the following applies:
 - (a) The Division has not acted on a request or application for public assistance within 45 days of the application.
 - (b) The Division has not acted on a FS application within 30 days of application.
 - (c) The Division acts to deny, reduce, close or suspend public assistance or FS benefits.
 - (d) The Division claims that an earlier public assistance payment was an overpayment, or that an earlier issuance of food stamps was an overissuance.
 - (e) The claimant claims that the Division previously underissued food stamps.
 - (f) A FS household disputes its current level of benefits.
 - (g) The FS filing group is aggrieved by any action of the Division which affects the participation of the filing group in the FS Program.
 - (h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress. The request must be made within 90 days of the date the waiver was signed.
 - (i) An obligor required to pay support through the Department of Human Resources is seeking credit for payments not made to DHR.
 - (j) The right to a hearing is otherwise provided.
- (2) A request for hearing is complete when:
 - (a) In public assistance programs: The Division's Administrative Hearing Request form (AFS 443) is filled out and signed by the claimant or the claimant's representative and is received by the Division.
 - (b) In the FS Program: The claimant makes an oral or written statement that he/she wishes to appeal a decision or present his/her case to a higher authority.
- (3) Except as provided in OAR 461-025-0355, to be timely, a completed hearing request must be received by the

Division not later than:

- (a) The 45th day following the date of the decision notice in public assistance and medical programs.
- (b) The 90th day following the date of the decision notice in the FS Program.
- (c) The 30th day following the date of notice from the Oregon Department of Revenue in tax intercept cases.
- (4) IPV hearings are requested by the Division.
- (5) In computing the time periods provided by this OAR, if the last day of the time period falls on a Saturday, Sunday, or a legal holiday, the period shall be extended until the next working day.

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

461-025-0315

Expedited Hearings

- (1) A claimant has the right to an expedited hearing if:
 - (a) The claimant's request for ADC-EA is denied;
 - (b) The claimant contests the form or amount of an ADC-EA payment;
 - (c) The claimant disagrees with the denial of continued benefits pending a requested hearing;
 - (d) The claimant's request for expedited FS service is denied, or the claimant is aggrieved by an action of the Division which affects the expedited participation of the household in the FS Program.
- (2) Public Assistance: An expedited hearing is a telephone hearing held within five working days of the Division's receipt of the written hearing request, unless the claimant requests more time. Reasonable notice of the hearing shall be served upon the claimant either personally or by certified mail. In the ADC program, if the claimant requests a face-to-face hearing, the hearing may be postponed or continued as necessary to accommodate the claimant. However, the hearing shall be held not later than 21 days following the receipt by the Division 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. The Division shall issue a Final Order within three working days from the date of the hearing.
- (3) Food Stamps: 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. Reasonable notice of the hearing shall be served upon the claimant either personally or by certified mail. Following the expedited hearing, a Final Order shall be issued not later than the ninth working day after the hearing was requested.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

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

461-025-0316**Intentional Program Violation (IPV) Hearings**

The following provisions govern IPV hearing in addition to or in lieu of OAR 461-025-0300 et seq.

- (1) The Division may combine a fair hearing and an IPV disqualification hearing in a single hearing if the factual issues arise out of the same or related circumstances and the accused individual receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, time limits for conducting disqualification hearings shall be followed.
- (2) 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 Division. There is no further administrative appeal after the individual signs the waiver unless the individual asserts that the waiver was signed under duress and, within 90 days from the date the waiver was signed, requests a hearing to prove this. The claimant has the burden of proving duress. If the hearing officer determines that the waiver was signed under duress, the waiver may be nullified and the Division may thereafter initiate an Intentional Program Violation hearing.
- (3) The Division shall provide an Advanced Notice of Intentional Program Violation Hearing at least 30 days in advance of the scheduled hearing to the individual suspected of having committed an IPV. The Advance Notice shall include the specific charge(s) alleged by the Division.
- (4) Within 90 days of the date the individual is notified in writing that the Division has scheduled a disqualification hearing, the Division shall conduct the hearing, arrive at a decision and notify the individual of the decision.
- (5) The accused individual or his or her representative 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 shall not be postponed for more than a total of 30 days, and the Division may limit the postponements to one.
- (6) If the accused individual fails to appear for the scheduled IPV hearing after refusing the notice of hearing, refusing to claim the notice or receiving the notice, the hearing may be conducted without the individual. The individual has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. Good cause will be determined on the record by the hearing officer. If the individual shows good cause, the Division will schedule another IPV hearing for the individual. If the individual never received the notice of hearing, the 10 day time limit to show good cause does not apply.
- (7) The hearing officer shall advise the individual accused of an IPV that he/she may refuse to answer questions during the hearing.
- (8) The officer shall base a determination that an individual has committed an Intentional Program Violation upon clear and convincing evidence.
- (9) The hearing shall be dismissed without prejudice by order when the notice of hearing is not received by the individual accused of having committed an IPV.
- (10) No further administrative appeal procedure exists after an adverse 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

461-025-0320

Group Hearings

Individual requests for hearing may be consolidated as a group hearing in cases where the sole issue is a state or federal law, regulation, or policy and individual issues of fact are not disputed. Each claimant shall be permitted to present his/her own case.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.095

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-025-0325

Pre-Hearing Conference

The Division representative shall offer a pre-hearing conference to the claimant.

(1) The purpose of this conference is to:

- (a) Provide an opportunity for the Division and the client to settle the matter;
- (b) Ensure the claimant understands the reason for the action which is the subject of the hearing request;
- (c) Give the claimant an opportunity to review the information which is the basis for that action;
- (d) Inform the claimant of the OAR(s) which serves as the basis for the action which is being contested;
- (e) Give the claimant and the Division 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 Division an opportunity to review its action.

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

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

(4) The claimant's right to a hearing is not affected by attendance at a pre-hearing conference, except for JOBS hearings as specified in section (5) of this OAR.

(5) Claimants who request JOBS-related hearings and fail, without good cause, to attend their pre-hearing conference lose their right to a hearing.

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

461-025-0330

Evidence

- (1) Except as provided in section (2) of this rule, the claimant and the Division must submit all documentary evidence and the names of all witnesses to the hearing officer not later than the beginning of the hearing.
- (2) Any evidence which the hearing officer determines necessary to ensure a fair and complete record may be received after the hearing begins.
- (3) Evidence of a type commonly relied upon by reasonable prudent persons in conducting their serious affairs is admissible. Irrelevant, immaterial and unduly repetitious evidence may be excluded by the hearing officer. No evidence shall be used in the determination of the case other than the evidence that is made part of the record.
- (4) The claimant must be given the opportunity to examine the evidence to be used at the hearing. This shall be done within a reasonable time before the hearing or during the hearing. The contents of the case file shall be made available to the claimant upon request. Copies of documents relevant to the hearing shall be provided to the claimant free of charge upon request. Confidential information, such as the names of individuals who have disclosed information about the claimant without his or her knowledge or the nature or status of pending criminal prosecutions, is protected from release, including certain medical information. Confidential information that is protected from release and other documents or records which the claimant will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing officer's decision.

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

461-025-0331

Burden of Proof

- (1) In all cases, except IPVs, the hearing officer shall arrive at a decision based on a preponderance of the evidence. IPV disqualification hearings require clear and convincing evidence.
- (2) The burden of presenting evidence to support a fact or position rests on the proponent of the fact or position.
- (3) The claimant must prove initial and continuing eligibility for Division programs.
- (4) The Division has the burden of proving that a claimant has received an overpayment or committed an Intentional Program Violation.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 4-1995, f. & ef. 2-1-95

461-025-0335

Subpoenas and Depositions

(1) Subpoenas may be issued by the hearing officer or attorney representing a party as authorized by law and according to the following rules:

(a) Before the hearing:

(A) Upon request of the claimant or the Division if it appears that the testimony of the witness will be relevant and not unduly repetitious;

(B) The subpoena must be requested from the hearing officer so that it can be served not later than five days prior to the hearing.

(b) After a hearing has commenced, if the hearing officer determines that it is necessary to subpoena a witness in order to hold a fair and complete hearing, the hearing officer will issue a subpoena which will be served by the Division;

(c) The party requesting a subpoena shall provide to the witness a witness fee and mileage reimbursement as provided by law for witnesses in civil actions, and is responsible for serving the subpoena;

(d) Any party or person upon whom a subpoena is served may file with the hearing officer a motion to quash the subpoena.

(2) Depositions to perpetuate testimony may be requested of the hearing officer by the claimant or the Division:

(a) The hearing officer may order the testimony of a witness to be taken by deposition. The deposition will be taken in the manner prescribed by law for depositions in civil actions;

(b) A request for a deposition shall provide:

(A) The name and address of the witness whose testimony is desired;

(B) A statement of the need for the deposition;

(C) A showing that the expected testimony is material to the case;

(D) The name of the official who will take the testimony of the witness; and

(E) The date, time, and place set for the proposed deposition.

(c) No discovery depositions will be ordered by the hearing officers.

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

461-025-0340

Expenses

The Division will provide reimbursement for the following expenses:

(1) Mileage, lodging and meal expenses within the State of Oregon at Division medical program rates for claimants whose hearing is held in an office not serving the area where they live; and

(2) Witness fees and mileage reimbursement as authorized by ORS 44.415 for witnesses called by the Division

representative or by the hearing officer.

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

461-025-0344

Division's Duty to Assist Claimant

- (1) Upon request, the Division shall assist the claimant with the hearing request.
- (2) If the individual making the request for a hearing has, as a primary means of communication, a language other than English, the Division must provide a qualified interpreter to ensure that the hearing procedures are explained in the individual's language and to interpret at the hearing.
- (3) The Division shall advise the claimant of any free legal services available that can provide representation at hearings.
- (4) If the Division denies continuing benefits pending the outcome of a hearing, the Division shall advise the claimants in writing that they have a right to an expedited hearing as provided in OAR 461-025-0315.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 4-1995, f. & ef. 2-1-95

461-025-0345

The Hearing

- (1) The notice scheduling the hearing shall be mailed by certified mail to the claimant and the claimant's representative at least 10 days prior to the scheduled hearing date except as otherwise provided by OAR 461-025-0315. In the case of an IPV hearing, notice must be provided to the claimant at least 30 days prior to the scheduled hearing date.
- (2) Hearings will be held in a location designated by the hearing officer which is accessible to the claimant, subject to the provisions of OAR 461-025-0340(1).
- (3) In the ADC program, except in the JOBS program, the claimant must agree to a telephone hearing or the hearing officer shall be present at the hearing location. Hearings involving all other programs, including JOBS and JOBS Plus, may be held by telephone without the claimant's consent. With the approval of the hearing officer, witnesses may testify by telephone during "in person" hearings.
- (4) The claimant or claimant's representative must attend the hearing.
- (5) The Division representative may not present legal argument or give legal advice to the Division unless the Division representative is an assistant attorney general.
- (6) The claimant, claimant's representative and the Division representative have the right to:

- (a) Submit evidence to establish all pertinent facts and circumstances in the case;
- (b) Bring witnesses;
- (c) Advance arguments without undue interference; and
- (d) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine any witnesses.

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

461-025-0346

Continuances

A continuance, or additional time following the hearing, may be granted when the hearing officer finds it is necessary in order to make a complete record or to otherwise ensure that the claimant has a fair hearing.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 4-1995, f. & ef. 2-1-95

461-025-0347

***Ex Parte* Communications**

- (1) An *ex parte* communication is an oral or written communication from or to the hearing officer not made in the presence of the claimant or the claimant's representative and the Division representative concerning a fact in issue in the proceeding, and includes communications of any new facts from any Division employees.
- (2) A hearing officer who makes or receives an *ex parte* communication during the pendency of the proceedings, shall:
 - (a) Advise any party who did not present the *ex parte* communication of the substance of the communication, if oral, or provide a copy of the communication, if written; and
 - (b) Provide an opportunity to rebut the substance of the *ex parte* communication. At the discretion of the hearing officer, such rebuttal may be presented during the hearing if the hearing is still in progress, or at a separate hearing for the limited purpose of receiving evidence relating to the *ex parte* communication, or in writing.
- (3) The Division's record of a contested case proceeding shall include:
 - (a) The *ex parte* communication, if in writing;
 - (b) A statement of the substance of the *ex parte* communication, if oral;
 - (c) The notice to the parties of the *ex parte* communication; and
 - (d) Any rebuttal evidence.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 4-1995, f. & ef. 2-1-95

461-025-0350

Withdrawals

- (1) A claimant may withdraw a hearing request at any time. The withdrawal shall be effective when received by the Division. The Division will send a Final Order confirming the withdrawal to the last known address of the claimant and the claimant's representative.
- (2) The claimant may cancel the withdrawal up to the tenth work day following the date such an order is served.

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

461-025-0355

Dismissals

- (1) A hearing request shall be dismissed by order when:
 - (a) The request for hearing was untimely, unless it was untimely due to circumstances beyond the control of the claimant;
 - (b) The issue being protested is not subject to the hearing process as specified in OAR 461-025-0310(1);
 - (c) A final order has previously been issued by the Division on the same issue;
 - (d) A client does not appear for a scheduled JOBS or JOBS Plus prehearing conference.
 - (e) The claimant does not appear for the scheduled hearing within 15 minutes of the time set for the hearing.
 - (f) Dismissals shall be effective the date of the scheduled prehearing conference under subsection (d), or hearing under subsection (e), and the Division may implement its proposed action immediately. The prehearing conference or hearing shall be rescheduled if:
 - (A) A written request is received by the Division within 10 days after the date of service of the dismissal order; and
 - (B) The claimant and the claimant's representative had good cause for missing the prehearing conference or hearing and for not requesting a postponement before the hearing.
 - (g) The claimant withdraws the request for the hearing;
 - (h) All issues of the hearing become moot before the order is served;
 - (i) A dismissal is otherwise authorized by law.

- (2) Once a hearing request is dismissed, any subsequent hearing request on the same issue shall be considered a new request for hearing and subject to OAR 461-025-0310.
- (3) A dismissal may be rescinded if the dismissal was improper.

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

461-025-0360

Postponements

- (1) The Division representative may grant a postponement of the prehearing conference upon the claimant's request.
- (2) The hearing officer may grant a post-ponement of the hearing upon the request of the claimant or the Division representative. Requests for postponement must be made to the hearing officer no later than the time of the scheduled hearing. A scheduled hearing is not postponed unless the request for postponement is granted by the hearing officer.
- (3) In the FS Program the claimant is entitled to receive one postponement of not more than 30 days.
- (4) The hearing officer may grant a postponement in public assistance and medical hearings or additional postponements in FS hearings:
 - (a) Upon a showing by the claimant, claimant's representative, or the Division representative that good cause exists:
 - (A) For not attending the scheduled hearing; or
 - (B) For not obtaining necessary evidence.
 - (b) If the Division representative and the claimant both agree to the postponement.
- (5) In IPV cases, a request for postponement must be made at least 10 days before the scheduled hearing date.

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

461-025-0365

Role of the Hearing Officer

- (1) The hearing shall be conducted by an impartial hearing officer. The hearing officer's responsibilities include:
 - (a) Administering oaths to witnesses and recording the hearing;
 - (b) Determining and informing the parties of the issues being contested based on the decision notice, pre-hearing summary or hearing request form;

- (c) Informing the parties of the burden of proof;
 - (d) Requesting, receiving, and making part of the record all evidence the hearing officer determines relevant and necessary to decide the issues;
 - (e) Regulating the conduct of the hearing;
 - (f) Examining witnesses as necessary, and permitting the claimant and Division representative to do so;
 - (g) Ruling on all objections and motions made on the record.
- (2) In an IPV hearing, the hearing officer shall inform the claimant that he/she may refuse to answer questions during the hearing.
- (3) The hearing officer may expel a person from the hearing if the person engages in conduct that disrupts the hearing, and may terminate the hearing if the claimant's or the claimant's representative's conduct is disruptive or does not allow the hearing officer to proceed with the hearing in an orderly manner. If a hearing is terminated because of the claimant's disruption of the hearing, the Final Order will be based on the record created before the termination of the hearing, including documents in the claimant's case file.
- (4) Upon the request of the claimant, the Division representative, or upon the hearing officer's own motion, the hearing officer may exclude witnesses from the hearing except during their testimony. The hearing officer may also limit the number of persons at the hearing if space limitations exist.
- (5) The hearing officer may set reasonable time limits for presenting evidence and argument.

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

461-025-0375

Final Order

- (1) A Final Order must be issued or the case otherwise resolved:
- (a) In public assistance cases not later than 90 days following the request for hearing;
 - (b) In FS cases not later than 60 days following the request for hearing;
 - (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) In computing the time period within which the Final Order must be issued, the following apply:
- (a) The day the hearing request is received by the Division shall not be included;
 - (b) The last day of the time period shall be included;
 - (c) If the last day is a Saturday, Sunday, or legal holiday, the time period shall include the next day which is not a Saturday, Sunday, or legal holiday.

(4) The Final Order shall be effective immediately upon being signed or as otherwise provided in the order. Final Orders resulting from the claimant's withdrawal of the hearing request are effective the date the claimant withdraws. When the claimant fails to appear for the hearing and the hearing request is dismissed by final order, the effective date of the order is the date of the scheduled hearing.

(5) The Final Order is the final decision of the Division and shall be signed by a hearing officer who conducted the hearing or who has reviewed the entire record, or the Administrator or his/her designee following consideration of the entire record.

(6) Final Orders shall include the following:

(a) Rulings on admissibility of offered evidence when the rulings are not elsewhere in the record;

(b) Findings of fact;

(c) Conclusions of law;

(d) The Order;

(e) A citation of the statutes under which the order may be appealed.

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

461-025-0380

Reconsideration and Rehearing

A claimant may request reconsideration of a Final Order or request rehearing according to the following rules:

(1) Reconsideration may be granted when:

(a) An error in procedure can be remedied without a rehearing and without consideration of additional evidence;

(b) An order is legally incorrect;

(c) There is insufficient evidence in the record to support the result; or

(d) There are other similar grounds.

(2) Rehearing may be granted when:

(a) Newly discovered evidence was not reasonably discoverable before the hearing record was closed;

(b) An error in procedure prevented the claimant from having a fair hearing and this can be remedied only by rehearing;
or

(c) There are other similar grounds.

(3) A request for a reconsideration or rehearing must be in writing and must specify the ground(s) for the request. Any additional evidence the claimant wants to submit must accompany the request. The claimant shall send the request to the

hearing officer. Written argument may be submitted.

- (4) The request for reconsideration or rehearing must be received by the Division or postmarked within 30 days of the date of service of the order.
- (5) A request for reconsideration or rehearing may be considered as a request for either. The request may be granted or denied by summary order and if not acted upon by the Hearings Unit, shall be deemed denied the 60th day following the date the request was postmarked or received by the Division, whichever is later. A Final Order remains in effect until changed.

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

461-025-0385

Amendment

The hearing officer may amend the Final Order to correct errors of law or to correct typographical errors which affect the meaning of the order. Amendment may occur on the hearing officer's own motion, or after request by claimant or the Division. The hearing officer may not amend the Final Order more than 60 days after the date of service of the Final Order.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.095

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 30

ADULT AND FAMILY SERVICES REVIEW COMMISSION

461-030-0100

Adult and Family Services Review Commission

Adult and Family Services Review Commission shall be appointed by the Governor.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0105

Composition

The Commission shall consist of 15 members. Eight members shall be appointed, two from each of the four congressional districts, from county public welfare boards; five members shall be recipients or former recipients of the aid or services of the Adult and Family Services Division; two members shall be appointed as representatives of the state agencies or public or private organizations interested in public welfare.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0110

Duties and Responsibilities

The Commission shall:

- (1) Advise and consult with the Administrator in carrying out the functions of the Adult and Family Services Division which may include recommendations in the following areas:
 - (a) Modifications of the AFS State Plan;
 - (b) Priorities in the use of funds as well as changes in the overall level of funds;
 - (c) Development of administrative policies relating to the determination of which type of agency shall provide services, scope of services, conditions of eligibility for service, and priority of areas to be served;
 - (d) Evaluation of program operations and the effects of policy;
 - (e) Effectiveness of client grievance and appeals systems.
- (2) Receive and consider information and recommendations from and consult with interested citizens, other committees, and advisory bodies having responsibilities related to public welfare, including the Governor's Advisory Committee on Medical Care for the Underprivileged, the Comprehensive Health Planning Authority, and the Children's Services Advisory Committee.
- (3) Serve as the advisory committee on adult social services programs.
- (4) Recommend changes in policy or program.
- (5) Submit to the Administrator its recommendations as to amended or new legislation related to the functions of the Division and to the needs of the people it serves.
- (6) Provide and interpret information concerning public welfare programs and needs to the citizens of Oregon.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0115

Committees

Subcommittees may be established at the recommendation of the Commission or the Administrator. Ad hoc committees may be established to study specific areas and make reports. The chairperson of such subcommittees shall be appointed by the Chairperson of the Adult and Family Services Review Commission. The tenure of subcommittees will be determined by the nature of the study or project undertaken.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0120

Resources

The Adult and Family Services Review Commission shall be provided such staff assistance from within the agency (within the limits of reason able cost) and such independent technical assistance as are needed to enable it to make effective recommendations. The Commission may request information and reports from Division staff or other sources as needed to assist it in carrying out its responsibilities.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0125

Term of Appointments

In accordance with statutory provision, terms of members shall be for two years. A member may be reappointed upon the expiration of his/her term by the Governor.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0130

Vacancies

If a position becomes vacant for any reason, another person shall be appointed for the remainder of the unexpired term by the Governor. Such appointments shall be consistent with the representation of the person being replaced.

Stat. Auth.: ORS Ch 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71

461-030-0135

Officers

The officers shall consist of a Chairperson, Vice-Chairperson, and Secretary. The officers shall be elected by the members of the Commission. The terms of officers shall be for one year. No member shall serve as Chairperson for more than two consecutive years. The Vice-Chairperson shall carry out the duties of the Chairperson in the event of his/her absence. The Secretary shall be responsible for the review of minutes and notices to members. With suggestions from members of the Commission, the Administrator will prepare the agenda.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0140

Compensation

Subject to the provisions of applicable state law, members shall be allowed actual and necessary expenses from the Adult and Family Services Division account as required for the performance of their duties. Members other than those employed in full-time public service shall receive, in addition to actual and necessary expenses, a payment of \$30 for each day or portion thereof during which they are actually engaged in the performance of their official duties.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0145

Attendance

Any member failing to attend two consecutive meetings of the Commission, whether regular or special, shall forfeit his office unless he is prevented from attending by the serious illness of himself or his family or for any other cause that in the judgment of the Governor constitutes a valid reason for failing to attend. The Governor shall immediately appoint a successor.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0150

Meetings

Meetings of the Commission shall be held monthly with the exception that the Commission may take action to forego meetings when advisable. Special meetings of the Commission may be called by the Chairperson with the approval of the Administrator when need is indicated. A simple majority of the Commission members shall constitute a quorum. All meetings shall be open and accessible to the public. Subject to available funds, meetings may be held in locations outside Salem to afford maximum opportunity for participation by interested Oregon Citizens.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

461-030-0155

Testimony and Statements

The Commission may invite testimony from individuals relative to its considerations. The Commission may permit individuals to appear and testify before the Commission relative to its considerations.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: PWC 612, f. & ef. 6-30-71; PWC 822, f. & ef. 12-1-76

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 52

PROGRAM ADMINISTRATION AND PERSONNEL REQUIREMENTS

461-052-0000

Delegation of Authority

Overall supervision of the FSP, including the establishment of policy and technical supervision of program and content, will be exercised by the supervisor, Food Stamp Program, Assistance Program Unit, AFS.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: AFS 7-1979, f. & ef. 3-30-79; AFS 116-1982, f. 12-30-82, ef. 1-1-83

461-052-0005

Division of Responsibilities

In order to safeguard certification and issuance records from unauthorized creation or tampering, the FSP will establish an organizational structure which divides the responsibilities for eligibility determinations and food coupons issuance among certification, data processing and issuance. The certification unit shall be responsible for determining eligibility and creating records and documents which authorize the issuance of coupons to eligible households. Data processing will maintain issuance record master file on cards, computer discs, tapes, or similar memory devices. Issuance shall provide certified households with authorized allotments. In cases where personnel are periodically, or on a part-time basis, shifted from one unit to another, supervisory controls should be sufficient to assure that the unauthorized creation or modification of case records is not possible.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: AFS 7-1979, f. & ef. 3-30-79

461-052-0010

Personnel

The BO personnel used in certification and interviews shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the U.S. Civil Service Commission under Section 208 of the Intergovernmental Personnel Act of 1970.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: AFS 7-1979, f. & ef. 3-30-79

461-052-0015

BO Personnel Participating in the FSP

No employee who is also a member of a household participating in the FSP shall certify or recertify the household of which he or she is a member. No participating household containing an eligible member who is an employee of any BO shall have its eligibility determined by a worker who is a participant in the FSP. BOs having only one employee who is also a participant in the FSP, shall have the certification or recertification of such a household approved by a person designated by the BO manager.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: AFS 7-1979, f. & ef. 3-30-79

461-052-0020

Volunteers and Non-BO Personnel

Volunteers and others not employed by the State shall not be used for the interview or to certify food stamp applicants. Volunteers may be used in related activities such as Outreach or assisting applicants in completing the application, other prescreening activities, and securing needed verification.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: AFS 7-1979, f. & ef. 3-30-79

461-052-0025

Parties Involved in Strikes or Lockouts

Individuals and organizations who are parties to a strike or lockout, and their facilities, may not be used in the certification process except as a source of verification for information supplied by the applicant.

Stat. Auth.: ORS Ch. 411

Stats. Implemented: ORS 411.060

Hist.: AFS 7-1979, f. & ef. 3-30-79

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 101

PROGRAM ACRONYMS AND OVERVIEW

461-101-0010

Program Acronyms and Overview

- (1) Acronyms are used when referring to each program (except Assessment and Repatriate). There is an acronym for each umbrella program (e.g., ADC) and acronyms for each subprogram (e.g., ADC-EA).
- (2) When no program acronym appears in an OAR, that means it applies to all programs listed in this OAR. If an OAR does not apply to all programs, it uses program acronyms to identify which program(s) it applies to.
- (3) Wherever an umbrella acronym appears, that means the OAR covers all the subprograms under that code (e.g., OSIP means OSIP-AB, OSIP-AD and OSIP-OAA).
- (4) ADC; Aid to Dependent Children. Financial aid to low-income families when children are deprived of parental support because of continued absence, death, incapacity or under/ unemployment. When used alone, ADC refers to all ADC programs. The following codes are used for ADC subprograms:
 - (a) ADC-BAS; Aid to Dependent Children - Basic (includes eligibility based on continued absence, death, incapacity and under/unemployment). ADC with deprivation based on under/unemployment is also denoted by ADC-BAS/UN.
 - (b) ADC-EA; Aid to Dependent Children - Emergency Assistance. Emergency cash to families without the resources to meet emergency needs.
- (5) ADCM; Aid to Dependent Children Medical. Medical aid to low-income families when children are deprived of parental support, as for ADC. When used alone, ADCM refers to all ADC-related medical programs. The following codes are used for ADCM subprograms:
 - (a) ADCM-BAS; Aid to Dependent Children Medical - Basic.
 - (b) ADCM-EA; Aid to Dependent Children Medical - Emergency Assistance. ADCM-EA offers emergency medical assistance to families without the resources to meet emergent needs.
 - (c) ADCM-EXT; Aid to Dependent Children Medical - Extended. ADCM-EXT provides extended medical benefits to

families after their ADC benefits end.

(d) ADCM-SAC; Aid to Dependent Children Medical - Substitute/Adoptive Care. ADCM-SAC gives medical coverage to children in substitute adoptive care.

(6) The Assessment Program is an upfront assessment and resource-search program for all ADC-BAS applicant families, except those required to participate in Pay-After-Performance. The intent of the program is to convey the message that ADC is primarily a self-sufficiency development program and to help individuals find employment or other alternatives before they become dependent on public assistance.

(7) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for ADCM, OHP or OSIPM solely because they do not meet citizen/alien status requirements.

(8) ERDC; Employment/Education-Related Day Care. Helps low-income families pay the cost of child care. When used alone, ERDC refers to all ERDC programs. The following codes are used for ERDC subprograms:

(a) ERDC-BAS; Employment/Education-Related Day Care - Basic. Child care for working families.

(b) ERDC-SBG; Employment/Education-Related Day Care - Student Block Grant. Child care for students.

(9) FS; Food Stamps. Helps low-income households maintain proper nutrition by giving them the means to purchase food.

(10) GA; General Assistance. Cash assistance to unemployable adults without dependent children.

(11) GAM-BAS; General Assistance Medical-Basic. Medical assistance to unemployable adults without dependent children.

(12) JOBS. An employment program for ADC-BAS, ADCM-BAS, REF and REFM-BAS clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(13) JOBS Plus. Provides subsidized jobs rather than ADC, FS or UI benefits. For ADC-BAS clients, JOBS Plus is a component of the JOBS Program; for FS clients, noncustodial parents of children receiving ADC-BAS and for UI recipients, it is a separate employment program. Eligibility for ADC-BAS clients, FS clients and noncustodial parents of children receiving ADC-BAS is determined by AFS. Eligibility for UI recipients is determined by the Oregon State Employment Department. AFS administers the work site agreements and payments for all JOBS Plus employers. JOBS Plus includes all four categories of clients. The following codes are used for specific categories:

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

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

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

(d) UI-PLS; Clients eligible for JOBS Plus based on UI eligibility.

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

(15) OHP; Oregon Health Plan. A 5-year Medicaid demonstration project, operating on waivers, that offers basic health coverage to most Oregonians with income under the federal poverty level.

(16) OSIP; Oregon Supplemental Income Program. Cash supplements to elderly and disabled individuals. When used alone, OSIP refers to all OSIP programs. The following codes 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-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-MN; Oregon Supplemental Income Program Medical - Medically Needy. Medical coverage for individuals who have too many assets to qualify for other OSIPM programs.

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

(18) QMB; Qualified Medicare Beneficiaries. Additional medical coverage for Medicare recipients. When used alone, QMB refers to all QMB programs. 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 people 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 - Special Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(19) REF; Refugee Assistance. Cash assistance to low-income refugee families.

(20) REFM or REFM-BAS; Refugee Assistance Medical - Basic. Medical coverage for low-income refugee families.

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

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 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

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 105

GENERAL PROVISIONS

461-105-0003

Oregon Option Groups

- (1) AFS is operating a demonstration project under a federal waiver called the Oregon Option Project. An evaluation will be done using the Springfield branch as the research site.
- (2) New and ongoing ADC-BAS clients in the Springfield branch will be randomly assigned to the program or control group. All clients outside the Springfield branch will be in the program group.
 - (a) All clients will be covered under the Oregon Option waiver policy, except control-group clients in Springfield.
 - (b) The control group will be covered by Family Support Act nonwaivered policy while they are being served by the Springfield branch. Whenever the term control group is used in administrative OAR in reference to the Oregon Option Project, it means control-group clients being served in Springfield.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 418.040
Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-105-0007

MDRC JOBS Evaluation; Branches

- The MDRC JOBS Evaluation Project operates in the following AFS branches:
- (1) Albina, Beaverton, East Portland, Hillsboro, North Portland, Northeast Portland, Southeast Portland, West Portland; and
 - (2) Clackamas, but only for clients who transfer into the Clackamas branch from one of the branches listed in section (1)

of this rule.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 1-1993, f. & cert. ef. 2-1-93; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95

461-105-0010

Rights of Clients

The Division's clients have the following rights, which branch offices must explain to them either orally or in writing:

- (1) The right to information about the programs administered by the Division.
- (2) The right to refuse to release information that was given to the Division to other agencies or people, unless the release is for purposes directly connected with administering the public assistance laws of Oregon.
- (3) The right to refuse social services unless:
 - (a) The service is court-ordered; or
 - (b) Related to training or employment.
- (4) The right to request a hearing within 45 days (90 days for FS) of the date of notice informing clients that their benefits are:
 - (a) Authorized;
 - (b) Reduced, ended, or denied;
 - (c) Changed to vendor, protective, or two-party payments.
- (5) The right to apply for any program administered by the Division, except ERDC-SBG. For ERDC-SBG, clients have the right to apply until the branch has used up their student allocation. When the branch is no longer accepting applications for ERDC-SBG, clients have the right to be added to the branch waiting list.
- (6) The right to receive a decision on eligibility promptly and within 45 days (30 days for FS) from the date of request for benefits.
- (7) The right to apply for and receive benefits and services without discrimination.

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.730, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.060

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

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 ten calendar days any changes that could affect their eligibility for benefits, including but not limited to the following:
 - (a) Receipt of income, resources, or property before disposing of these assets;
 - (b) Change in job status or school attendance;
 - (c) Involvement in a motor vehicle or personal accident;
 - (d) People moving in and out of the household;
 - (e) For all programs except FS, changes in shelter costs;
 - (f) For FS, changes in shelter costs when moving.
- (4) Accept social services that are court-ordered or related to training or employment.
- (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, 411.070, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

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

461-105-0030

Responsibilities of AFS

Branch offices must explain the following information to clients, either orally or in writing:

- (1) The client's responsibilities per OAR 461-105-0020.
- (2) The client's rights per OAR 461-105-0010.
- (3) The eligibility requirements of the program for which they are applying or receiving benefits.
- (4) What the required verification is and methods for providing verification.
- (5) The methods AFS may use with the permission of the client to obtain verification the client is unable to provide.
- (6) The social services and community resources available.

- (7) The responsibility of AFS to:
 - (a) Administer cash, medical, service and FS programs within the laws, regulations and available funds; and
 - (b) Establish and enforce child support obligations of absent parents by referral to the proper support enforcement agency.
- (8) The right of AFS to do all the following:
 - (a) Recover overpayments;
 - (b) Obtain payments or repayments from medical insurance coverage;
 - (c) Recover cash and medical benefits from the estates of former GA, GAM, OSIP-AD, OSIPM-AD, OSIP-OAA and OSIPM-OAA clients, and medical benefits from the estate of former OSIP-AB and OSIPM-AB clients over age 65 and QMB clients.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-105-0050

Client Information

All client information is confidential. The Division may not release or disclose client information, except as specifically authorized in administrative rule, or as ordered by a court.

Stat. Auth.: ORS Ch. 411, 412, 413, 414 & 418

Stats. Implemented: ORS 411.320 & 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90

461-105-0060

Release of Information to the Client

- (1) The Division must make the information in a client's case record available to the following people within the limits described in OAR 461-105-0140:
 - (a) The primary person;
 - (b) Anyone in the benefit group;
 - (c) Anyone authorized by the primary person or a person in the benefit group.
- (2) The primary person and benefit 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 branch office may destroy all information in the case record not needed for eligibility purposes.
- (4) 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 Division employee is allowed to remove any material from the case record. For a fee, the branch office will provide the person examining the case record with a copy of any portion of the case record that they are entitled to examine.
- (5) Case record information may be requested by the client and released to the client by telephone. The client must satisfy the branch as to their identity.

Stat. Auth.: ORS Ch. 411, 412, 413, 414 & 418

Stats. Implemented: ORS 411.320 & 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

461-105-0070

Client Authorization for Release of Client Information to Third Party

- (1) A written authorization signed and dated by the client is mandatory to allow third parties (except attorneys representing the client) to view the client's case record. The branch office must file the authorization in the case record.
- (2) A verbal or written authorization from the client is mandatory to allow verbal release of case record information specified by the client to third parties (except attorneys representing the client).
- (3) Each authorization to release information to a third party (except attorneys representing the client) is valid for a period of 30 days from the date the authorization is given verbally or signed, unless another specific time period is given. There is no limit on the number of times the client may authorize release of material in the case record.

Stat. Auth.: ORS Ch. 411, 412, 413, 414 & 418

Stats. Implemented: ORS 411.320 & 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90

461-105-0080

Release of Information to a Client's or Support Obligee or Obligor's Attorney

- (1) Release client information to a client's attorney after verifying the attorney's identity and that the attorney is representing the client. The branch does not have to have a signed release from the client in the case record. The attorney is allowed access to case information for as long as they represent the client.
- (2) In child support cases where the obligee or obligor is not and never has been the primary person or someone in the benefit group, the obligee's or obligor's attorney is entitled only to the information the Division has on the person they represent, and only for as long as the attorney continues to represent them.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.120, 411.300, 411.632, 411.700, 411.710, 411.816, 412.025, 412.520, 413.009, 414.032, 414.042 & Ch. 418

Stats. Implemented: ORS 411.320 & 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 13-1991, f. & cert. ef. 7-1-91

461-105-0090

Release of Client Information to Collateral Contacts

Division employees making collateral contacts must safeguard client confidentiality and give only the minimum information about the client necessary to collect information.

Stat. Auth.: ORS Ch. 411, 412, 413, 414 & 418

Stats. Implemented: ORS 411.320 & 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90

461-105-0095

Requirement to Report Child Abuse and Abuse of the Elderly

(1) The Division's employees are expected to comply with Oregon Child Abuse Reporting Laws (ORS 418.740 to 418.775), the Elderly Abuse Reporting Laws (ORS 410.630 and 410.640), and the Patient Abuse Reporting Laws (ORS 441.640 and 441.645).

(2) For ADC, ADCM, ERDC, FS and OHP, verbally report suspected child abuse immediately to the local CSD office or to a law enforcement agency within the county where you are at the time of contact.

(3) For FS, GA, GAM, OHP, OSIP, OSIPM, and QMB, verbally report suspected abuse of the elderly or abuse of patients in a medical or care facility immediately to SDSD or to a law enforcement agency.

(4) If known, the abuse report should contain the following:

- (a) The name and address of the abused person and any people responsible for their care;
- (b) The abused person's age;
- (c) The nature and the extent of the abuse, including any evidence of previous abuse;
- (d) The explanation given for the abuse;
- (e) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

Stat. Auth.: ORS 411.060, 411.816, Ch. 412, 413, 414.042 & Ch. 418

Stats. Implemented: ORS 411.320 & 418.130

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 13-1995, f. 6-29-95, cert. ef. 7-1-95

461-105-0100

Release of Client Information to Law Enforcement Officers

(1) Provide information only to law enforcement officers involved in carrying out public assistance laws, or any investigation, criminal or civil proceedings connected with administering the Division's benefit programs. Otherwise, do

not give law enforcement officers any information on clients from case records, conversations, or sources obtained because the person is or has been a client of the Division. Personal knowledge that does not come from the client's interaction with the Division can be given.

(2) For all programs except FS, the manager or their designee may give a client's current address to law enforcement officers when all the following are true:

- (a) The law enforcement officer provides the name and SSN of the client; and
- (b) The officer satisfactorily demonstrates that the client is a fugitive felon (as defined by the State), the location or apprehension of such felons is within the law officer's official duties, and the request is made in the proper exercise of those duties.

(3) For FS, the Division may release the address, SSN and, if available, the photograph of any FS household member to a law enforcement officer if the officer does all the following:

- (a) Supplies the person's name and states that the client:
 - (A) Is a fugitive felon, or violating probation or parole; or
 - (B) Has information needed to conduct an official investigation related to a person under subsection (3)(a).
- (b) Makes the request in the proper exercise of official duty.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.300, 411.320 & 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

461-105-0110

Release of Client Information to Service Providers and Legal Bodies

(1) Division employees may release to service providers information necessary for accurate billing of services provided to clients of AFS or other DHR agencies.

(2) Only 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 AFS child care payment.
- (c) The client's copayment amount.
- (d) Reasons for a delay in payment. Do not disclose any information that is not specific to the reason for the delay.

(3) Do 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 without written consent of the client.

(4) Disclose information about a client to a public official who has been asked by the client to review an action taken by the Division.

(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) 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 Division's programs.

(b) The client has given written authorization for release of specific information.

(c) A judge directs you to provide the information.

(7) When appearing before the court, bring to the presiding judge copies of the state statutes relating to confidentiality of client records (ORS 411.320 and 418.130) and ask the court's guidance in testifying under the statutes. Answer questions at the direction of the judge.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.300, 411.320 & 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

461-105-0120

Release of Information on Child Support and Paternity Cases

(1) "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.

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

(3) "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.

(4) The Division may release information from the branch case record on alleged fathers, absent parents, and obligors only as follows:

(a) Release information to the alleged father, absent parent, or obligor using policy in OAR 461-105-0060;

(b) Release information to the attorney of the alleged father, absent parent or obligor using policy in OAR 461-105-0080.

(5) The Division may release information from the Recovery Services Section (RSS) Child Support Program electronic files only as follows:

(a) For purposes directly connected with establishing and enforcing support obligations; and

(b) When the information is public record (i.e., derived from court order or decree or administrative process order that requires the obligor to pay support). Under this provision, release only 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.

(6) The alleged father, absent parent, obligee, obligor and their attorney may be entitled to information that SED has in its files under SED policy on releasing information. The Division will refer the individual or their attorney to SED for that information.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.595, 411.632, 411.700, 411.710, 411.730, 412.025, 412.520, 413.009, 414.032 & Ch. 418

Stats. Implemented: ORS 411.320 & 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

461-105-0130

Disclosure of Client Information

(1) Federal regulations, federal law and Oregon statutes allow disclosure of client information without their authorization for purposes directly connected with:

(a) Administering the public assistance laws. This means releasing information necessary to carry out the Division's programs.

(b) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with administering the Division's programs.

(c) Any legally authorized audit or review by a governmental entity conducted in connection with administering the Division's programs.

(2) Organizations receiving confidential client information from the Division must have agreed to the following conditions as part of their Data Access License agreement:

(a) The confidential character of the information will be preserved.

(b) The information will be used only for the purposes for which it is made available.

(c) The information is for the exclusive use of the institution or agency to which it is submitted, and their standards for safeguarding the confidential information are equal to those established by the Division.

(3) Client information may be exchanged with other DHR agencies and Division contractors.

(4) For all programs except FS, 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.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.300, 411.320 & 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

461-105-0140

Release of Information from Other People or Agencies

(1) Except as provided in section (2) of this rule, information that was obtained from other social agencies, public departments, institutions, hospitals, physicians or attorneys, becomes part of the client's case record and is available to the client per OAR 461-105-0060.

(2) Withhold from clients information that was obtained from other social agencies, public departments, institutions, hospitals, physicians or attorneys only if *all* of the following are true:

- (a) The information was submitted to the Division in confidence;
- (b) The information was not required by law to be submitted;
- (c) The information can reasonably be considered confidential;
- (d) The Division has obliged itself not to disclose the information;
- (e) The public interest would suffer if the information were disclosed.

Stat. Auth.: ORS Ch. 411, 412, 413, 414 & 418

Stats. Implemented: ORS 411.320 & 418.130

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90

461-105-0150

Availability of Written Public Records

- (1) A request for the Division's written public records must:
 - (a) Be in writing; and
 - (b) Specifically identify the record being requested, number of copies, and the name and address of the individual, corporation, or firm making the request.
- (2) The request must be mailed to: Adult and Family Services Division, Forms and Publications, Human Resources Building, 4th Floor, 500 Summer Street, N.E., Salem, OR 97310.
- (3) The request must be accompanied by a check or money order covering the cost of providing the record, as determined by a fee schedule available from the Division's Forms and Publications Unit.
- (4) If the cost of reproducing the requested record is unknown, establish the amount of the advance payment to be received.
- (5) When the funds are received, provide a copy of the record. Request the balance due when the record becomes available.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.595, 412.520, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.350

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93

461-105-0160

Fees for Public Records

- (1) The cost of providing written public records, as defined in ORS 192.410(4) and (5), is determined by the following

factors:

- (a) Cost of reproducing the record;
 - (b) Third-class postage at the prevailing U.S. postal rate;
 - (c) A reasonable charge for handling the record;
 - (d) Professional/clerical staff time as necessary to research and reproduce the record;
 - (e) Computer systems costs, if necessary, to produce the record.
- (2) Waive the cost of furnishing public records when charging fees would be counter to effective administration of the Division's statutes.
- (3) Give clients free copies of state laws, and rules and regulations pertaining to OSIP-AB.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.350

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-105-0170

Availability of Policies

- (1) Make the following written policy available in the Division's region and branch offices to clients and all other interested people on regular work days during regular work hours:
- (a) Eligibility manuals;
 - (b) Executive letters;
 - (c) Worker guides;
 - (d) Manuals appendix;
 - (e) Rules and regulations (including vendor guides);
 - (f) Legislation relating to the programs administered through the Division;
 - (g) Any other documents kept by the branch or regional office that explain, clarify, interpret, or otherwise relate to the criteria and procedures used in determining eligibility for, and the kind and amount of, program benefits available under Titles IV-A, IV-C, IV-D, XVI, or XIX of the Social Security Act, and the Food Stamp Act.
- (2) This rule does not provide for releasing any document that names or otherwise readily identifies an individual client of any program administered by the Division.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.350

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

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) No individual with a disability shall, by reason of such disability, be denied the benefits of the services, programs, or activities of the Division:

(a) "Disability" is defined as a physical or mental impairment that substantially limits one or more of the major life activities of an individual. Included within this definition are individuals who have such impairments, individuals with a record or history of such impairments, and individuals who are regarded or perceived to have such impairments;

(b) "Physical impairment" is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(c) "Mental impairment" is further defined as any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) The Division is required to make reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Division can show that making the modifications would fundamentally alter the nature of the service, program or activity. The Division must not use any eligibility criteria that screen out or tend to screen out an individual with a disability from fully and equally using any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program or activity.

(3) The following acts of discrimination on grounds of race, color, sex, disability, 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 Ch. 183, 411.060, 411.070, 411.105, 411.620, Ch. 414, 416 & 418

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

461-105-0200

Complaints About Discrimination

(1) Form AFS 415R (Rights and Responsibilities) informs clients that they have the right to courteous and fair treatment without discrimination.

(2) Any branch office employee who receives a complaint of discrimination, whether verbal or written, must report the complaint to their supervisor.

(3) For all programs except FS, if a person believes they have been discriminated against, they may file a written complaint with the branch office and/or with: U.S. Department of Health and Human Services, Office for Civil Rights, 2201 6th Avenue, Suite 900, Seattle, WA 98121-1831

(4) For FS:

(a) People believing they have been subject to discrimination may file a written complaint with the branch office and/or with: Food and Consumer Service, Administrator, 3101 Park Center Drive, Alexandria, VA 22302

(b) The complaint must be filed no later than 180 days from the date of the alleged discrimination. However, the time for filing may be extended by the Secretary.

(c) The Division will accept all complaints of discrimination, written or verbal. Complaints are accepted by either the Affirmative Action Officer or the local manager or their designee. Complaints are then forwarded within 5 working days to the FS Program Analyst in the Policy and Budget Section, AFS. PBS forwards the complaint within 5 working days to the Civil Rights Director at FCS. PBS also keeps a record of all complaints and their disposition for a period of 3 years. All complaints should contain the information as specified in subsection (d) below.

(d) If an individual verbally alleges that a discriminatory act has been committed, but does not put it in writing, the person receiving the complaint will do so. Record the following information:

(A) Name, address and telephone number or other means of contacting the complainant.

(B) Location and name of the organization or office accused of discriminatory practices.

(C) The nature of the incident, action, or the aspect of program administration that led the person to allege

discrimination.

(D) The reason for the alleged discrimination (age, race, color, sex, religious creed, national origin, political belief, or handicap).

(E) Names, titles (if appropriate) and addresses of people who may have knowledge of the alleged discriminatory acts.

(F) The date or dates on which the alleged discriminatory actions occurred.

(e) FCS Civil Rights staff will work with the Office of Equal Opportunity to resolve civil rights complaints.

(f) Display the USDA nondiscrimination poster, ". . . and Justice for All," prominently in the branch office and all issuance offices. Provide participants and other low-income households with access to nondiscrimination statutes, policies, and complaint procedures within 10 days of a request.

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 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96

461-105-0410

Client Requirement to Cooperate; QC Review

(1) Clients are required to cooperate with the QC review process. Refusal to cooperate will result in termination of benefits.

(2) The client may reapply, but will not be found eligible to receive benefits until they cooperate with the QC review.

(3) The QC reviewer will notify the branch office when a client fails to cooperate.

(4) For FS:

(a) Clients found ineligible for non-cooperation with the QC review may be eligible if they reapply 95 days or more after the end of the annual review period (September 30 of each year);

(b) If the client reapplies prior to the 95 days, the client is not eligible until they cooperate with the QC reviewer.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 110

ELIGIBILITY GROUPS

461-110-0110

Terms Used in Determining Eligibility

The following terms are used in the eligibility determination process:

(1) Child means the offspring of a biological or legal (step or adoptive) parent. The term "child" does not include unborns. The following additional program-specific definitions apply:

(a) For ADC, ADCM, REF and REFM, the term dependent child means the following:

(A) A person who is not a caretaker relative of a child in the household. This person is unmarried or married but separated, and is under age 18, or 18 and a full time student in secondary school or the equivalent level of vocational or technical training; or

(B) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to minor parents who are married and living with their spouse.

(b) For ERDC, child includes children who have no biological or legal relationship to the caretaker, but are in the care and custody of the caretaker and are:

(A) Under age 18; or

(B) Age 18 and in secondary school or vocational training at least half time.

(c) For FS, child means adult and minor children living with their parent(s).

(d) For GA, GAM and OSIP, child means people under age 18.

(e) For OHP, child means persons, including minor parents, who live with a parent or caretaker and are:

(A) Under age 18; or

(B) Age 18 and a full-time student in a secondary school or the equivalent level of vocational or technical training.

(f) For OSIPM and QMB, child means unmarried people living with their parent(s) and:

(A) Under age 18; or

(B) Age 18, 19 or 20 and attending full time secondary, post-secondary or vocational/technical training designed to prepare the person for employment.

(2) 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 disabled people age 18 and 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 - People living in their home receiving services determined necessary by SDSD or MHDDSD.

(d) Residential care facility - A facility that provides residential care in one or more buildings on contiguous property for six or more physically handicapped or socially dependent people.

(e) Specialized living facility - Identifiable services designed to meet the needs of persons 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.

(3) Custodial parents means parents who have physical custody of their child(ren). Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(4) For FS, disabled means a person who meets any of the following:

(a) Receives state GA, OSIP, SSI, VA (for nonservice or service-connected disability rated as total), railroad or governmental benefits based on disability.

(b) Is a veteran considered in need of Aid and Attendance benefits by the VA.

(c) Is the surviving spouse or child of a veteran and is considered permanently incapable of self-support under Title 38 of the United States Code.

(d) Receives SSB based on blindness or disability.

(e) Receives a state or federally administered benefit for a disability considered permanent that meets SSA criteria.

(5) Disqualified means an individual cannot receive program benefits because they have not cooperated in fulfilling some eligibility requirement. Actions that can disqualify an individual include not cooperating with JOBS, JOBS Plus or OFSET, failing to provide an SSN or failure to pursue assets. In some cases, a disqualified individual can make their filing group ineligible for benefits.

(6) Domestic violence shelters are public or private nonprofit 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.

(7) For FS, elderly means a person age 60 or older.

(8) For FS, homeless means the group does not have a fixed or regular nighttime residence or the group's primary residence is one of the following:

(a) A supervised shelter that provides temporary accommodations.

(b) A halfway house or residence for people who may become institutionalized.

(c) A temporary accommodation in another person's or family's residence for 90 days or less.

(9) Ineligible means a person cannot receive program benefits because they do not meet some eligibility requirement that is beyond their control; not because they refuse to fulfill the requirement. A person may be ineligible for benefits because of age, alien status, student status (for FS) or because a disqualified member of the filing group makes them ineligible.

(10) Long-term care is the system through which SDDS and MHDDS provide required financial benefits, specialized living arrangements, and a broad range of social and health services to eligible aged, blind or disabled adults for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(11) Marriage means legal marriage uniting two people. Legal marriage is:

(a) One recognized as legal by state statute of the state where the marriage occurred, including common-law marriage if recognized as legal in a state where the couple previously resided.

(b) A cultural marriage if it occurred in a country that recognizes it as legal.

(12) For FS, 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 an FS household fits the definition of migrant farmworker at any time during the redetermination period, budget the household according to the policy on migrant farmworkers.

(13) Nonstandard living arrangements are those in which a person does not live in their own home or requires special services to remain in their home.

(14) Parent means the biological or legal (step or adoptive) mother or father of a person or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child/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 person is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

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

(15) For all programs except FS, primary person 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 ADC and ADCM, the parent or caretaker relative.

(b) For ERDC, the caretaker.

(c) For GA, GAM, OSIP, OSIPM and QMB, the client or their spouse.

(d) For OHP, REF and REFM, the applicant, caretaker, caretaker relative or parent.

(16) For FS, primary person means:

(a) An adult in the filing group who is designated by the group to serve as the primary person.

(A) A child of any age cannot be the primary person when more than one generation lives together, and an adult who is the parent or fulfilling the role of parent is employed, work-registered for FS or receiving ADC-BAS or UC.

(B) 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 person to be the primary person during the same redetermination period or during an OFFSET/job quit disqualification period, unless there is a change in the composition of the household group.

(17) Safe homes are 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.

(18) For FS, seasonal farmworkers are people employed in agricultural employment of a seasonal or temporary nature. If any member of an FS household fits the definition of seasonal farmworker at any time during the redetermination period, budget the household 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.

(19) Sibling means the brother or sister of a person. "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.

(20) Spouse means a person who is legally married to another person. For ERDC, FS, GA and GAM, the spouse includes a person who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors or tradespeople; and

(b) Sharing living expenses or household duties.

(21) Standard living arrangement means people living in what is normally considered a single family dwelling (such as a house, apartment, motel room or trailer) without needing special services to remain in their home.

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 13-1992, f. & cert. ef. 5-1-92; AFS 30-1992 (Temp), f. & cert. ef. 10-14-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; 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 15-1996, 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

461-110-0210

Household Group

- (1) The household group is the people who live together with or without benefit of a dwelling.
 - (a) For homeless people, the household group is the people who consider themselves living together.
 - (b) A separate household group is established for people who live in the same dwelling as another household group, if all the following are true:
 - (A) There is a landlord/tenant relationship where the tenant is billed by the landlord at fair market value for housing.
 - (B) The tenant lives independently from the landlord.
 - (C) The tenant:
 - (i) Has and uses sleeping, bathroom and kitchen facilities separate from the landlord; or
 - (ii) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for fair market value compensation.
- (2) People who live with more than one household group during a calendar month are members of the household group where they spend 51 percent or more of their time, except as follows:
 - (a) For ADC-BAS:
 - (A) If a parent sleeps at least 30 percent of the time during the calendar month in the dependent child's home, the parent is in the same household group as the dependent child.
 - (B) If a dependent child lives with two household groups in the same calendar month for one of the following reasons, include the child in the group with the caretaker relative who usually has the major responsibility for care and control of the child.
 - (i) For educational reasons.
 - (ii) The usual caretaker relative is gone from the household for part of the month because of illness.
 - (iii) A family emergency.
 - (b) For ERDC, if a child lives with different caretakers during the month, they are considered members of both household groups.
 - (c) For FS:
 - (A) Include the person in the household group where they eat at least 51 percent of their meals. This is true for everyone except minor children and their parents who are in an ADC-BAS filing group. Treat them according to section (2)(a) of this OAR.
 - (B) Residents of domestic violence shelters/safe homes can be included in two household groups the month they enter the shelter. (The two household groups are the one they left and the one they are in after entering the shelter.)
- (3) The people in the household group who apply for benefits are called applicants. The household group and applicants form the basis for determining who is in the remaining eligibility groups.
- (4) People gone from the household for 30 days or more are no longer part of the household, except for the following:
 - (a) For all programs except FS, people in a general hospital for 30 days or more remain in the household group unless

they go into long-term care. For FS, these people are no longer in the household group.

(b) For ADC-BAS, ADCM (except ADCM-EA) and OHP:

(A) Caretaker relatives who are gone for up to 90 days in a residential alcohol or drug treatment facility are in the household group.

(B) Children who are gone for 30 days or more are in the household group if they are:

(i) Gone for illness (unless they go into a long-term care Title XIX facility), social service, or educational reasons; or

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

(c) Additionally for ADC-BAS, a parent who is gone for 30 days or more is in the household group if:

(A) They are absent because of education, training or employment (e.g., they are looking for work outside the area of their residence or their employment takes them out of their residence). This includes long-haul truck driving, fishing and active duty in the U.S. armed forces; and

(B) The other parent remains in the home.

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 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

461-110-0310

Filing Group; Overview

(1) The filing group is the people from the household group whose circumstances are considered in the eligibility determination process. The filing group consists of the following:

(a) People from the household group who choose to apply for benefits and who meet non-financial eligibility requirements; and

(b) People who must apply for benefits because of their relationship to people described in subsection (1)(a) of this rule.

(2) If the filing group does not include at least one applicant who meets all non-financial eligibility requirements, the group is ineligible. Clients must provide information needed to determine who must be in the filing group.

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

(4) For FS, a household member can be in two filing groups if the person:

(a) Is a resident of a domestic violence shelter or safe home; and

(b) Recently left the household containing the person who abused them.

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 2-1994, f. & cert. ef. 2-1-94

461-110-0330

Filing Group; ADC, ADCM-EA, ADCM-EXT

- (1) For ADC, ADCM-EA and ADCM-EXT, a filing group must include a dependent child or unborn and the following household members (even if they are not applicants or do not meet nonfinancial eligibility requirements):
- (a) Parents of the dependent child in the filing group.
 - (b) Parents of an unborn.
 - (c) Siblings of the dependent child, except as specified in subsection (3)(a) of this OAR. The siblings must be under age 18, or age 18 and attending school full time.
 - (d) For needy caretaker relatives of the dependent child, their spouse and their dependent children.
- (2) Do not include dependent children who have been or will be receiving foster care payments for more than 30 days.
- (3) Allow minor parents to form a separate filing group with their dependent child(ren) when:
- (a) The minor parent lives with an adult relative who is not their parent; or
 - (b) The parents of the minor are in the household, but are not applying for ADC for the minor parent or any of their siblings.
- (4) Additionally for ADC-BAS, a sibling of a dependent child may be excluded if the sibling is receiving adoption assistance and counting the sibling's income reduces the filing group's benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 418.040 & 418.100

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

461-110-0340

Filing Group; ADCM-BAS, ADCM-SAC

- (1) For clients who are ineligible for ADC-BAS, form ADCM-BAS filing groups as follows:
- (a) Include applicants who meet all nonfinancial eligibility requirements.
 - (b) Include the following household members (even if they are not applicants or do not meet nonfinancial eligibility requirements):
 - (A) Parents of a dependent child who is in the filing group.
 - (B) Parents of an unborn, as follows:

- (i) If there are no other dependent children in the filing group, both the mother and the father are in the group.
- (ii) If there are other dependent children, the mother is in the group. The father is in the group only if he is the father of another dependent child in the filing group or he is married to the mother.
- (c) Except as provided in section (1)(d) of this OAR, include blood-related siblings of a dependent child if the siblings meet all the following nonfinancial eligibility requirements:
 - (A) Age.
 - (B) Living with a caretaker relative.
 - (C) Deprivation.
 - (D) Citizen/alien status.
- (d) A sibling of a dependent child may be excluded from the filing group if the sibling is receiving adoption assistance and counting the sibling's income reduces the filing group's benefits.
- (e) Do not include dependent children who have been or will be receiving foster care payments for more than 30 days.
- (f) Allow minor parents to form a separate filing group with their dependent children when the minor parent lives with an adult relative who is not their parent.

(2) For ADCM-SAC, the filing group includes only the child who meets all nonfinancial eligibility requirements.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97

461-110-0350

Filing Group; ERDC

For ERDC, the filing group consists of applicants who meet all nonfinancial eligibility requirements and the following applicants and household group members, even if they do not meet nonfinancial eligibility requirements:

- (1) The caretaker of the child for whom ERDC benefits are requested.
- (2) Unmarried children and their siblings, under age 18 or age 18 and attending school full time, in the care and custody of the caretaker. Include foster child(ren) if the caretaker wants to include them in the need group.
- (3) The parent(s) of a child required to be in the filing group.
- (4) The parent(s) of an unborn, if the unborn's siblings are required to be in the filing group.
- (5) The spouse of the caretaker.
- (6) Allow minor parents to form a separate filing group with their dependent child(ren) when the minor parent applies as the caretaker.

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 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

461-110-0370

Filing Group; FS

Form FS filing groups as follows:

- (1) Exclude the following people from the FS filing group:
 - (a) Residents of commercial boarding houses.
 - (b) Ineligible students, as defined in OAR 461-135-0570.
 - (c) The following people who are paying to have meals provided, if they apply for benefits for themselves alone, or if the meal provider chooses not to apply for benefits for them:
 - (A) A member of the household group who pays a reasonable amount for meals (lodger).
 - (B) Persons in foster care.
- (2) If the household group includes a person in foster care, form the filing group as follows:
 - (a) Exclude the person in foster care from the filing group if they or the caretaker relative do not want to apply for benefits for them. This applies even if the person in foster care is related to others in the filing group as described in sections (3) through (6) of this OAR.
 - (b) If the foster caregiver wants to apply for the person in foster care along with other household members, follow the criteria in sections (3) through (10) of this OAR to determine the filing group.
- (3) If parents have children who are under age 22 and they are in the same household group, they must be in the same filing group.
- (4) Children under age 18 must be in the same filing group with an adult household member who is not their parent if they are under the parental control of that adult. Parental control means the person has care, control and supervision of the child.
- (5) If siblings are in the same household group without their parent, allow separate filing groups when they purchase and prepare their food separately, unless an adult sibling has parental control over a minor sibling. If so, the adult and minor sibling must be in the same filing group.
- (6) Spouses who are in the same household group must be in the same filing group.
- (7) Members of the household group who pay other members of the household group for meals, but are not paying a reasonable amount for those meals, are in the same filing group with the other people in the household group. A reasonable amount for meals is:
 - (a) An amount that equals or exceeds the Thrifty Food Plan for the person and anyone in that person's filing group, if more than two meals a day are provided; or
 - (b) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the person and anyone in that person's

filing group, if two or less meals a day are provided.

(8) Members of the household group who purchase and prepare food together must be in the same filing group, except in the following situations:

(a) A live-in attendant and their minor children may choose not to be in the filing group with the people for whom they are providing services, even if they purchase and prepare food with those people. They may choose not to be included in the filing group only if they are not required to be included per sections (3) through (6) of this OAR.

(b) An elderly person and their spouse may form their own filing group, separate from the people with whom they purchase and prepare meals, if:

(A) The elderly person is unable to purchase and prepare food because of a disability; and

(B) The combined income of all other household members (excluding the elderly person and their spouse) does not exceed the following limit: [Table not included. See ED. NOTE.]

(9) For residents of drug/alcohol treatment facilities:

(a) For parents living with their children, under age 22, form one filing group.

(b) For all other residents, the filing group consists only of the applicant.

(10) For residents of an RCF where an employee of the facility is the authorized representative, the filing group consists only of the applicant. Use the criteria in sections (3) through (6) of this OAR to decide how to form filing groups for residents of these facilities where an employee of the facility is not the authorized representative.

(11) For residents of a homeless or domestic violence shelter, the filing group consists of:

(a) Residents who choose to apply together; or

(b) Residents who form filing groups according to the criteria in sections (3) through (6) of this OAR.

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060 & 411.816

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 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

461-110-0390

Filing Group; GA, GAM

For GA and GAM, the filing group consists of the applicant and their spouse, if they meet all non-financial eligibility requirements. If any member of the filing group does not meet all non-financial eligibility requirements, the entire group is ineligible.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.620, Ch. 414, 416 & 418

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

461-110-0400

Filing Group; OHP

For OHP, form filing groups as follows:

- (1) Except as provided in section (4) of this rule a household group member of any age must be their own filing group if they are not required to be in a filing group with other household group members per sections (2) and (3) of this rule.
- (2) The following household group members must be in the same filing group, even if they are not applicants or do not meet all nonfinancial eligibility requirements:
 - (a) Married persons, each spouse's own children, and their common children;
 - (b) Parents of children or an unborn, each parent's own children, and their common children;
 - (c) Child siblings who are not children of a household group member.
- (3) A child, including minor parents and their children, a pregnant child, and the child's spouse or parent of his or her children or unborn, are in the filing group with the child's parent(s) if they are in the same household group.
- (4) Caretaker relatives (per OAR 461-120-0630) may:
 - (a) Form separate filing groups for children who are not their children; or
 - (b) Choose to include the children in their filing group.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94

461-110-0410

Filing Group; OSIP, OSIPM, QMB

- (1) For OSIP and OSIPM people in standard living arrangements, the filing group consists of applicants who meet all nonfinancial eligibility requirements and the following applicants and household members, even if they do not meet nonfinancial eligibility requirements:
 - (a) The spouse of an applicant.
 - (b) For OSIPM, the biological, adoptive and stepparents of children under age 21 if the children are not assumed eligible.
 - (c) For OSIPM-MN, children under age 21, if the parent wants to include the child in the need group.
- (2) For OSIP and OSIPM people in nonstandard living arrangements, the filing group in an AFC, RCF, ALF, SLF,

receiving in-home services or in a nursing facility consists only of the person applying for benefits if the person meets all nonfinancial eligibility requirements.

(3) For QMB people in standard and nonstandard living arrangements, the filing group consists of applicants who meet all nonfinancial eligibility requirements and the following household members, even if they do not meet nonfinancial eligibility requirements:

- (a) The spouse of an applicant.
- (b) The biological, adoptive and step-parents of children under age 21, if the children are not assumed eligible.
- (c) Children under age 21, if the parent wants to include the child in the need group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-110-0430

Filing Group; REF, REFM

For REF and REFM, the filing group must include a person who meets the refugee alien status per OAR 461-120-0120, plus the following household members:

- (1) The refugee's spouse and dependent children.
- (2) If the refugee is a dependent child:
 - (a) Siblings under age 18; and
 - (b) The refugee's parents; or
 - (c) A caretaker who has care, control and supervision of the refugee, if the refugee is not living with their parents.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97

461-110-0510

Financial Group; Overview

The financial group is the filing group members whose income and resources count in determining eligibility and benefits.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-110-0530

Financial Group

(1) The financial group for ADC and ADCM consists of all the people in the filing group, except the following:

- (a) Caretaker relatives (other than parents) who choose not to be included in the need group; and
- (b) People who receive SSI benefits.

(2) The financial group for OHP consists of all the people in the filing group (including those receiving SSI benefits), except caretaker relatives (other than parents) who choose not to be included in the need group.

(3) For all other programs, the financial group consists of all the people in the filing group.

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 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

461-110-0610

Need Group; Overview

The need group is:

- (1) The people whose basic and special needs are used in determining eligibility.
- (2) For ADC, ERDC, GA, FS, OHP, OSIP, QMB, and REF, the people whose basic and special needs are used in determining benefit level.
- (3) For OSIPM-MN, the people whose medical expenses are used in determining spend-down.

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 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

461-110-0630

Need Group

(1) For ADC-BAS:

- (a) Exclude the following from the need group:

- (A) Parents who are in foster care and for whom foster care payments are being made.
 - (B) Clients who are out of the need group because of a disqualification penalty.
 - (C) Unborns.
- (b) The need group consists of the remaining financial group members who meet all nonfinancial eligibility requirements, excluding citizenship or non-citizen status.
- (2) For ADCM-BAS, the need group consists of financial group members who meet all nonfinancial eligibility requirements, except for the following:
- (a) Parents who are in foster care and for whom foster care payments are being made.
 - (b) Clients disqualified for intentional program violation (IPV) in the ADC-BAS program.
 - (c) The father of an unborn who has no eligible dependent children.
- (3) For ADC-EA, ADCM-EA, ADCM-SAC, REF and REFM-BAS, the need group consists of financial group members who meet all nonfinancial eligibility requirements, except members disqualified for IPV.
- (4) For ADCM-EXT, the need group consists of financial group members who:
- (a) Meet all nonfinancial eligibility requirements; and
 - (b) Were included in the ADC-BAS benefit group at the time benefits ended; or
 - (c) Were not included in the ADC-BAS benefit group only because their needs were removed due to an Oregon Option disqualification.
- (5) For ERDC, the need group consists of all the people in the financial group.
- (6) For FS, the need group consists of financial group members who meet all nonfinancial eligibility requirements, except:
- (a) Members disqualified for IPV.
 - (b) Persons fleeing to avoid prosecution, custody or confinement after conviction for a felony or attempt to commit a felony.
 - (c) Persons violating a condition of parole or probation imposed under a state or federal law.
- (7) For GA and GAM, the need group consists of the people in the financial group who meet all nonfinancial eligibility requirements. If any member of the group does not meet all requirements, the entire group is ineligible.
- (8) For OHP, the need group consists of all the people in the financial group. For pregnant females, include the unborn child(ren).
- (9) For OSIP and OSIPM:
- (a) Except OSIPM-MN, the need group consists of the people in the financial group who meet all nonfinancial eligibility requirements. When the financial group includes an ineligible spouse, use the two-person income and resource limit to determine eligibility for the living situation of the need group member.
 - (b) For OSIPM (including OSIPM-MN), include the needs of an unborn for pregnant females in the need group.

- (10) For OSIPM-MN and QMB, the need group consists of all the people in the financial group, except for the following:
- (a) Ineligible aliens.
 - (b) People disqualified for noncooperation with JOBS. These people cannot be in the need group until they have completed their JOBS disqualification.
 - (c) People disqualified for noncooperation with support enforcement or for not providing an SSN.
- Stat. Auth.: ORS 411.060
- Stats. Implemented: ORS 411.060
- 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

461-110-0720

Benefit Group; Overview

The benefit group is the people who receive benefits.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-110-0750

Benefit Group

- (1) For people not assumed eligible, the benefit group consists of the people from the need group who meet all the following:
- (a) All non-financial eligibility requirements;
 - (b) Have resources below the resource limit;
 - (c) Have income below the Income Limits/Payment Standards.
- (2) For people assumed eligible, the benefit group consists of the people who are in the benefit group of the program used to assume eligibility.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 115

APPLICATION/REDETERMINATION/VERIFICATION

461-115-0010

Application Process; Overview

- (1) Branch offices must use one application and process for people applying for multiple programs under the time frames and eligibility requirements that apply to each program.
- (2) The application process must ensure that federal and state requirements are accurately and promptly applied.
- (3) Help all clients comply with procedural requirements of the application process. This includes helping applicants who are unable to complete the application or gather information necessary for eligibility determination.
- (4) Ensure that application forms are readily accessible to anyone requesting them.
- (5) When clients apply at an AFS branch office, the Division must screen requests for benefits to determine if applicants want to apply for ADC-EA or ADCM-EA, or are eligible for FS expedited services:
 - (a) For ADC-EA and ADCM-EA, allow applicants to submit an application on the day they indicate they have an emergent need. Mail an application to applicants at their option, if they request by phone;
 - (b) For FS expedited services, establish procedures to ensure that their applications are processed according to the application processing time frames.
- (6) If eligibility cannot be determined at the intake interview, give or mail the client a written notice that includes:
 - (a) Information needed to determine eligibility and requirements clients must meet to be eligible; and
 - (b) The length of time the client has to provide this information.

Stat. Auth.: ORS 411.060 & 411.650

Stats. Implemented: ORS 411.650

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

461-115-0015

Application Process; Waiting List for ERDC-SBG

- (1) Eligibility for ERDC-SBG is subject to the availability of funds.
- (2) To apply for ERDC-SBG, parents must first be on a state-wide waiting list to determine when they are eligible to apply for ERDC-SBG. The waiting list is maintained by the Child Care Resource and Referral Network (network).
- (3) Prospective applicants will be added to the waiting list in order of the date and time the network receives a completed waiting list form.
- (4) As funds are available, an appropriate number of people from the waiting list are notified by the network of their right to apply for ERDC-SBG. An application form is included with the notice that advises the applicant of the need to return a completed application within 15 days.
- (5) The waiting list is updated monthly by contacting all persons who have been on the waiting list for six months or more to determine their current education/training status and their need for child care assistance. Persons on the list who do not respond within 15 days from the date of notification, or who indicate they no longer need child care assistance, will be dropped from the list.
- (6) The application processing time frame for ERDC-SBG is as follows:
 - (a) The date of request is the date the network sends the client a notice of their right to apply, along with an application.
 - (b) The application processing time frame is the same as that specified in OAR 461-115-0190.
 - (c) If no application is received within 15 days following the date of request, the applicant will be dropped from the waiting list. If the applicant wants to apply after the 15 days, they must reapply to be put on the waiting list.
 - (d) If the student is not enrolled in school when their name comes up on the waiting list, the application processing time frame may be extended to give them time to register and enroll in school no later than the next school term.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 24-1992(Temp), f. & cert. ef. 8-18-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 19-1997, f. & cert. ef. 10-1-97

461-115-0020

Application Requirements

For the branch office to determine eligibility, the applicant or their authorized representative must do all the following:

- (1) Complete an application.
- (2) Apply at the appropriate location.
- (3) Cooperate in providing necessary information and verification within the time frames specified for each program.

(4) Meet the interview requirements of OAR 461-115-0230.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.730, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.650

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

461-115-0030

Initiating the Application Process

(1) For all programs, the client or someone authorized to act on their behalf must contact the Division or another appropriate location with a request for benefits. The request may be in the form of a phone call, visit, or written request by the applicant or another person or agency acting on the applicant's behalf. This request starts the application process. Other appropriate locations clients may contact are:

- (a) For ADC-EA for homeless filing groups, a Community Action Agency.
- (b) For ERDC-BAS and ERDC-SBG, an AFS-contracted child care resource and referral agency.
- (c) For OHP, the client may:
 - (A) Call the OHP toll-free number.
 - (B) Attend an OHP outreach meeting.
 - (C) Contact a federally qualified health center or a disproportionate-share hospital.

(2) The date of request is one of the following:

- (a) For all programs except ADCM, ERDC-SBG, GAM, OHP, OSIPM and REFM, the date of request is the day the request for benefits is received by the Division.
- (b) For ADCM, GAM, OSIPM and REFM, the date of request is the day the medical care began, if the actual request is made no later than the next working day. If the request is received later than the next working day, the day the request is received by the Division becomes the date of request.
- (c) For ERDC-SBG, the date of request is the date AFS or the AFS-contracted child care resource and referral agency sends the client a notice of their right to apply, along with an application.
- (d) For OHP:
 - (A) The date of request is the day the request for benefits is received by the Division, or the date stamped on the OHP application by an OHP outreach worker, toll-free operator or outstationed worker. In addition, the date of request may be the day medical care began, if the actual request is made no later than the next working day.
 - (B) The application must be received by the AFS or SDSB branch office no later than 30 days from the date of request. If the 30th day falls on a weekend or holiday, the application must be received by the following working day. If not, the date the branch office receives the application becomes the date of request.

(3) For all programs except FS and the Assessment Program, record the date of request on a Division-approved form, and use the date of request to establish:

- (a) The date for starting the application processing time frames; and
 - (b) The date from which the effective date is determined.
- (4) Use the date that clients are assigned activities on their initial EDP to begin the 30-day Assessment Program.
- (5) For FS, see OAR 461-115-0040.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650

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

461-115-0040

Filing Date; FS

- (1) For FS, the filing date is the date a signed written request for benefits is received by the Division or by the SSA office for filing groups applying per OAR 461-115-0150(3). The written request may be a Division-approved form or other written material, if it includes the client's:
- (a) Name; and
 - (b) Address; and
 - (c) Signature.
- (2) Use the filing date to establish:
- (a) The date for starting the application processing time frames.
 - (b) The date from which the effective date is determined.
- (3) The branch office will ensure that FS applicants are given or sent an application on the date of request by doing one of the following:
- (a) If an applicant comes into the branch office, give them Part I of the application and allow them to file it that same day.
 - (b) If an applicant requests benefits by phone or in writing, mail an application the same day the request is received.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650 & 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 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-115-0050

When to Use an Application

- (1) For all programs except ADCM-EXT, a complete application, on a form approved by the Division, is required to determine eligibility.
- (2) The application is complete if all the following are true:
 - (a) All necessary information to determine eligibility and benefit amount is provided on the application for all people in the filing group.
 - (b) The applicant provides a mailing address, even if they are homeless.
 - (c) The application is signed.
 - (d) Part I or Part II of the application is completed as required by sections (3) through (5) of this OAR.
 - (e) The application is received by the branch office.
- (3) Use Part I of the application to do all the following:
 - (a) Record the date of request.
 - (b) Screen for applicants in need of ADC-EA, ADCM-EA and FS expedited services.
 - (c) Determine eligibility for ADC-EA and ADCM-EA.
 - (d) Register applicants for FS employment programs per OAR 461-130-0030 and issue them support service payments.
- (4) For clients applying only for ERDC, use the ERDC-only application to determine eligibility.
- (5) For clients applying only for OHP, use the OHP-only application to determine eligibility.
- (6) For clients leaving ADC-BAS and requesting ERDC, either a request on the appropriate notice or form, or a verbal request, is considered a complete application.
- (7) Except as described in sections (3) through (6) of this OAR, use Part II of the application to determine eligibility for all programs.
- (8) No new application is required in the following situations:
 - (a) When the same application is used for both a denial in the month of application and for determining eligibility the next month. This can be done when:
 - (A) Anticipated changes make the filing group eligible the next month, and the eligibility decision is made within the application processing time frame; or
 - (B) For FS, the filing group provides verification 30 to 60 days following the filing date, per OAR 461-180-0080. This is true even if the application was denied.
 - (b) When the case is closed and reopened within the same calendar month.
 - (c) When benefits were suspended for one month because the case was over income, and the case is reopened the month after the suspend month.
 - (d) When a client ends their third-level JOBS disqualification the month after their ADC benefits were closed.
- (9) Use the following to decide if an application is needed to add a newborn to a benefit group:

(a) For ADC-BAS and REF:

(A) If the newborn was included on the original application as an unborn, and there is sufficient information about the newborn to establish their eligibility, another application is not required.

(B) If the newborn was not included on the original application as an unborn, another application is required.

(b) For ADCM, OHP and REFM:

(A) No application is required to add an assumed eligible newborn to its mother's benefit group.

(B) No application is required to approve eligibility for an assumed eligible newborn whose mother is receiving OSIPM.

(C) An application is required to add a newborn to any other benefit group.

(c) For FS, an application is not required to add a newborn to the benefit group.

(d) For all other programs, an application is required to add a newborn to the benefit group.

(10) Use the following to decide if an application is needed to add someone other than a newborn to the benefit group:

(a) For all programs except FS, an application is required to add someone other than a newborn to the benefit group.

(b) For FS, an application is not required to add someone other than a newborn to the benefit group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650

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

461-115-0070

Who Must Sign the Application and Complete the Application Process

(1) For ADC-BAS, ADCM (except ADCM-EA), ERDC, REF and REFM, the following people, or their authorized representative, must complete the application process and sign the application:

(a) For ADC-BAS, ADCM, REF and REFM, a caretaker relative:

(A) If the caretaker relative is needy and living with their spouse, both must sign the application;

(B) If the caretaker relative is non-needy, their spouse is not required to complete the application process or sign the application;

(C) When the caretaker relative payee changes, the new caretaker relative must sign a current application.

(b) For ERDC, a caretaker.

(2) For ADC-EA and ADCM-EA, a caretaker relative or their authorized representative must complete the application process and sign the application for dependent children under age 18. If the child is not living with a caretaker relative,

another adult may act on behalf of the child:

- (a) If the caretaker relative lives with a spouse, both must sign the application;
- (b) Dependent children age 18 may apply for themselves.
- (3) For FS, either the primary person, spouse of the primary person, another adult member of the filing group, or their authorized representative must complete the application process and sign the application.
- (4) For GA, GAM and QMB, an adult requesting assistance or their authorized representative must complete the application process and sign the application. If the adult lives with their spouse, both must do this.
- (5) For OHP, the primary person, spouse of the primary person, another adult member of the filing group or their authorized representative must complete the application process and sign the application.
- (6) For OSIP and OSIPM, an adult requesting assistance or their authorized representative must complete the application process and sign the application. If the adult lives with their spouse, both must do this. If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the authorized representative provides the required verification.
- (7) If a person who must sign the application is unable to write their name, they may sign with their mark. The mark must be witnessed by an employee of the branch office.

Stat. Auth.: ORS 411.650, 42 CFR 435.914

Stats. Implemented: ORS 411.650 & 42.CFR 435.914

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 6-1994, f. & cert. ef. 4-1-94

461-115-0090

Authorized Representatives; Overview

- (1) An authorized representative may be used for the following situations:
 - (a) To complete the application process if the primary person or spouse is unable to do so unassisted.
 - (b) For FS, an authorized representative may be appointed any time the primary person, their spouse, or another responsible member of the filing group names one in writing. The authorized representative must sign the application as a filing group member or sign the authorization form designated by the Division.
 - (c) One person may be both the authorized representative and the alternate payee, if so designated. In areas of the state where benefits are issued via EBT, the authorized representative and alternate payee authorizations must be identified separately, even if they are the same person. In areas not using EBT, an authorized representative can both obtain and use benefits for the benefit group without a separate designation.
- (2) Whenever possible, the primary person or their spouse reviews any information provided by an authorized representative.
- (3) For all programs except FS, filing groups are responsible for any overpayment resulting from information given by their authorized representatives.
- (4) For FS:

- (a) Filing groups are responsible for any overpayment resulting from information given or withheld by their authorized representative, unless the authorized representative is from a drug/alcohol residential treatment center or RCF.
- (b) If the authorized representative is a drug/alcohol treatment program or RCF, they are responsible for any overpayment resulting from information they gave or withheld.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 418.047

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

461-115-0100

When the Agency Should Assign an Authorized Representative or Alternate Payee

- (1) The branch office may appoint any responsible, willing individual to be an authorized representative or alternate payee.
- (2) Assign an authorized representative or alternate payee if:
 - (a) No responsible adult or caretaker relative can apply; or
 - (b) No member of the benefit group is able to obtain and/or use FS benefits because of illness.
- (3) For all programs except FS, the branch office may select an authorized representative or alternate payee. Involve the client as much as possible in selecting this person, vendor or services. The client should receive notice of the decision and have an opportunity to object to the person designated.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650 & 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

461-115-0110

Who May be an Authorized Representative or Alternate Payee; Not FS

- (1) For all programs except FS, the authorized representative or alternate payee is named in the order of priority listed below:
 - (a) A legally appointed guardian.
 - (b) A conservator.
 - (c) A person with power of attorney.
 - (d) A person authorized by the client.
 - (e) A person acting responsibly for the client.
 - (f) The superintendent of a state institution for the mentally ill or mentally retarded (if the client is a patient of the

institution).

(2) For ADC, the emergency authorized representative or alternate payee does not need to be related to the children. However, the emergency authorized representative cannot represent the caretaker relative for more than 60 days.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650

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

461-115-0130

Who May Be Authorized Representative or Alternate Payee; FS

(1) For FS, the authorized representative or alternate payee may be any of the following, unless excluded per OAR 461-115-0140:

- (a) Any member of the filing group.
 - (b) Any person who is not in the filing group, but who is aware of the filing group's circumstances.
 - (c) A private nonprofit organization.
 - (d) An employee of a drug/alcohol treatment facility certified eligible by the State of Oregon Office of Drug and Alcohol Abuse Program, or a licensed RCF.
- (2) The person selected as the authorized representative or alternate payee should have:
- (a) Concern for the family's welfare.
 - (b) The ability to help the family make proper use of their benefits.
 - (c) Accessibility to the benefit group and awareness of their circumstances.
 - (d) The ability to establish and maintain a positive relationship.
 - (e) Good character and reliability.

(3) Except for residents of drug/alcohol treatment facilities and RCF, clients may choose their own authorized representative or alternate payee. The branch office must be sure the person is qualified. If the person selected by the client cannot be an authorized representative or alternate payee, notify the client.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.650 & 418.047

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 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-115-0140

Who Cannot Be an Authorized Representative or Alternate Payee; FS

(1) For FS, the authorized representative or alternate payee cannot be any of the following:

- (a) People disqualified for fraud (unless they are the only adult member of the case).
- (b) Landlords, and other vendors of goods or items who deal directly with the client, including retailers who are authorized to accept FS benefits.
- (c) Employees of the Division (except with the specific written approval of the Administrator).
- (d) Homeless meal providers.

(2) FS authorized representatives or alternate payees who have knowingly misrepresented the filing group's circumstances, or have misused FS benefits, are disqualified as follows:

- (a) For drug/alcohol treatment programs or licensed RCFs acting as the authorized representative, FCS establishes the disqualification.
- (b) For all other authorized representatives and alternate payees, the branch office:
 - (A) May disqualify the person from acting in the capacity of a representative or payee for up to one year; and
 - (B) Must send a basic decision notice 30 days before the disqualification goes into effect.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.650 & 418.047

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

461-115-0145

When the Facility is the Authorized Representative; FS

For FS, use the following when the authorized representative is a drug/alcohol treatment program or licensed RCF:

- (1) Each facility must provide the branch office with a monthly list of residents receiving benefits. The list must include a statement of validity signed by an official of the facility. The branch office must make random on-site visits to validate the list, update the branch office records and keep the lists for three years.
- (2) The facility is responsible for notifying the branch office of changes in the resident's assets or other circumstances. The facility is responsible for any overpayment resulting from incorrect information.
- (3) When a resident moves out, the facility provides them with their FS ID card or EBT card. If the resident moves:
 - (a) Before the 16th date of the month, the client is eligible for one-half of that month's allotment. The center either gives them FS coupons or, for EBT clients, assures that the correct amount is in their EBT account; or
 - (b) On or after the 16th of the month, the resident does not receive any FS benefits.
- (4) The facility must return to the branch office any coupons remaining at the end of the month for residents who have left that month.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.650 & 418.047

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

461-115-0150

Offices Where Clients Apply

(1) For all programs, applicants must apply at the branch office serving the area in which they live. Applicants temporarily in another area of the state should apply at the branch office serving that area. For the following programs, applicants may also apply at these locations:

- (a) For ADC-EA for homeless filing groups, a Community Action Agency;
- (b) For ERDC-BAS and ERDC-SBG, an AFS-contracted child care resource and referral agency;
- (c) For OHP, the applicant may:
 - (A) Call the OHP toll-free number;
 - (B) Attend an OHP outreach meeting;
 - (C) Contact a federally qualified health center or a disproportionate-share hospital.

(2) The Division has designated liaison branch offices for some groups of applicants (such as patients in state medical institutions and refugees). These applicants must apply at the designated liaison branch office.

(3) For FS:

- (a) Applicants may apply at the SSA office if:
 - (A) All members of the filing group are applying for (or are receiving) SSI; and
 - (B) The filing group has not applied for or received FS in the last 30 days.
- (b) The application process used for applicants at the Division branch office is the same as the one used at the SSA office;
- (c) The SSA office forwards the completed application and verification to the Division branch office;
- (d) The Division branch office determines eligibility and issues the FS benefits.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.650

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

461-115-0170

Clients Who Apply at the Wrong Branch Office

- (1) Give applicants who contact the wrong branch office the address and telephone number of the correct branch office. Additionally for OHP, if applications are mailed to the wrong branch office, that office will date stamp the application and forward it to the correct branch office no later than the next working day.
- (2) Applicants who appear for an interview that was scheduled at the wrong branch office must have their eligibility determined and benefits issued by that branch office. Immediately afterward, that branch office must transfer the case to the correct branch office.
- (3) For FS applicants contacting the wrong branch office:
 - (a) If Part I of the application is completed, the wrong branch office offers to forward it to the correct branch office;
 - (b) The wrong branch office records the filing date on the application;
 - (c) The processing time frames do not begin until the application is received by the correct branch office.

Stat. Auth.: ORS 411.060 & 411.650

Stats. Implemented: ORS 411.650

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94

461-115-0190

Application Processing Time Frames; Not FS

- (1) For all programs except ADC-EA, ADCM-EA and FS, determine eligibility within 45 days from the date of request for benefits. The limit may be extended for any of the following reasons:
 - (a) Information needed to determine eligibility is expected to be received after the 45-day limit, and the client has no control over delivery.
 - (b) Other circumstances exist that are not within the control of the client or the branch office, and this delays the eligibility decision past the 45-day limit.
 - (c) The client requests a hearing before the 45-day time frame has ended.
 - (d) For the Division to determine blindness or disability for a person who has applied for OSIP or OSIPM, when the blindness or disability decision has not been made by SSA or is being appealed to SSA. Extend the limit to no more than 90 days from the date of request.
 - (e) The client is participating in the Assessment Program and the client delayed the start of the program by missing the appointment where they were to be assigned Assessment Program activities.
- (2) For ADC-EA and ADCM-EA:
 - (a) The branch office must determine eligibility within one working day of the date of application, if verification of eligibility has been completed. For homeless filing groups, the date of application is the date the signed Outstationed Application for Emergency Assistance Program form is received at the AFS branch office.
 - (b) If verification of eligibility has not been completed, determine eligibility as soon as sufficient information is available.
 - (c) Written notice of the eligibility decision must be sent to the client the same day the eligibility decision is made.

(3) For the Assessment Program, the formal assessment must be offered within 15 days of the date of request for ADC.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650

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

461-115-0210

Application Processing Time Frames; FS

(1) For FS, determine eligibility and provide the benefit group the opportunity to participate as soon as possible, but no later than 30 days following the filing date. If the 30th day falls on a holiday or weekend, extend it to the next workday. The 30-day limit may be extended in any of the following situations:

- (a) The eligibility decision may be delayed for up to 60 days from the filing date to give an applicant time to provide required verification. To qualify for this extension, the applicant must keep a scheduled interview or contact the branch office within 30 days of the filing date to reschedule the interview.
- (b) If (because of branch office delay) the intake interview is scheduled after the 31st calendar day from the filing date. Give the applicant up to 30 days from the interview to provide verification.
- (c) The client requests a hearing before the 30-day time frame has ended.

(2) An opportunity to participate means ensuring that the client has the benefits to use within the following timeframes:

- (a) For regular FS benefits, by the 30th day following the filing date.
- (b) For expedited FS benefits, by the 7th day following the filing date.

(3) Determine eligibility for FS expedited services within the following time frames:

- (a) In time to ensure receipt of benefits by the seventh calendar day following the filing date. This applies even if the office interview is waived.
- (b) If the screening on the filing date did not identify a client who is eligible for expedited service, determine eligibility in time to ensure receipt of benefits as follows:

- (A) For Division error, by the seventh calendar day following the filing date.
- (B) Due to lack of information or misinformation from the client, as soon as possible but no later than the seventh calendar day following the date the error was discovered.
- (c) Process the application according to section (1) of this OAR when all the following are true:
 - (A) The screening identified a client potentially eligible for expedited service.
 - (B) The branch scheduled an interview date.
 - (C) The branch explained loss of entitlement to expedited service should the client miss the interview.
 - (D) The client did not attend the interview.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, 411.650 & 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

461-115-0230

Interviews

(1) For OHP, no interview is required. For all programs except OHP, as part of the application process, the branch office conducts an interview to gather information needed to determine eligibility. The interview:

- (a) Is scheduled as promptly as possible to ensure compliance with the application processing time frames; and
- (b) May be at the branch office, out of the office, or by phone. Phone interviews should be used only if branch office or out-of-office interviews are not possible.

(2) Protect the client's right to privacy and confidentiality during the interview process.

(3) The application process interview requirements are as follows:

- (a) Except as stated in subsections (3)(b), (c) and (d) of this rule, applicants must be interviewed by an employee of a branch office;
- (b) For ADC-EA for homeless filing groups referred to AFS by community action agencies, applicants must be interviewed by an employee of a branch office or a Community Action Agency;
- (c) For ERDC:

(A) Applicants must be interviewed by an employee of a branch office or an employee of an AFS-contracted child care resource and referral agency;

(B) The interview may be in person or by phone.

(d) The interview may be waived for any program change, if the worker has enough information to determine eligibility.

(4) The office interview may be waived as follows:

(a) For all programs except FS, interviews may be out of the office or by phone when necessary. Conduct interviews by phone only if a client is unable to come to the office because of a disability or transportation problem and the branch office is unable to make a home visit interview within the processing time frames;

(b) For FS, waive an office interview if an authorized representative cannot be appointed, and no adult member of the filing group can come to the office because of one of the following:

(A) All adult members of the group are over age 65, or physically or mentally handicapped;

(B) There are transportation difficulties;

(C) Other hardships exist (such as illness, care of another household member, bad weather, residency in a remote area, or work or training hours that prevent a member of the filing group from participating in an office interview).

- (5) If the office interview is waived, a telephone or home visit interview is required.
- (6) If the client or their authorized representative misses a scheduled appointment:
 - (a) For all programs except FS, the request is considered withdrawn unless the client missed the appointment because of illness or an emergency;
 - (b) For FS, pend the request, and:
 - (A) If the client recontacts the branch office within 30 days, reschedule the interview and keep the original filing date;
 - (B) If there is no contact within 30 days, deny the request if a filing date was established.

Stat. Auth.: ORS 411.060 & 411.650

Stats. Implemented: ORS 411.650

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

461-115-0250

Withdrawal of Applications and Requests for Benefits

- (1) Clients may withdraw their application at any time during the application process.
- (2) Consider an application withdrawn if any of the following are true:
 - (a) The client or their authorized representative does not complete the application process (including signing the application), and there is no contact with the branch office by the end of the application processing time frame;
 - (b) The client takes the application from the office without completing the eligibility process;
 - (c) Additionally for ADC, consider a request for assistance withdrawn if the client does not keep a scheduled group orientation or intake appointment (unless the client misses the appointment because of illness or an emergency).

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.650

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-115-0270

Program Change Application Requirements

- (1) For all programs except FS, clients may change between programs administered by the Division using the current application if all the following are true:
 - (a) The client makes a verbal or written request for the change. For ERDC, the request must be in writing;
 - (b) There is enough information and documentation to determine eligibility for the new program without a new application;

- (c) The program change is made before a redetermination of eligibility is due;
 - (d) The filing group has received cash or medical benefits from the branch office within the previous calendar month.
- (2) To make a program change using the current application, branch offices must do all the following:
- (a) Determine eligibility for the new program based on the eligibility requirements for that program;
 - (b) Establish a new date of request or filing date;
 - (c) Begin the processing time frames with the new date. Let the existing redetermination date stand.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.620, Ch. 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.650

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 19-1993, f. & cert. ef. 10-1-93

461-115-0300

Job Retention Payments to Applicants

- (1) Applicants are eligible for payments needed for job retention, if all the following are true:
- (a) They are over income for ADC-BAS, but otherwise eligible.
 - (b) They would be under the ADC-BAS countable income limit within a month if they lost employment.
 - (c) They would lose employment without the payments.
- (2) These payments are limited to the minimum amount necessary for employment-related costs, not to exceed the ADC-BAS adjusted income standard for the family size, and are not ongoing.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-115-0410

Redetermination; Overview

- (1) A redetermination is the process used to review eligibility to approve or deny continuing benefits. This process includes a review of the application and supporting verification documents.
- (2) Clients must cooperate in the eligibility redetermination. If they do not cooperate, their benefits are stopped.
- (3) Redetermination is done at assigned intervals or whenever eligibility for benefits becomes questionable.
- (4) Redetermination period means the months between initial eligibility and when a redetermination is due or between one redetermination and the next.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.105 & 411.111

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-115-0430

Periodic Redeterminations; Not FS

(1) For ADC-BAS, ADCM-BAS and ADCM-SAC:

(a) Redetermine eligibility:

(A) At least once every six months for filing groups not in the MRS, not using APR and not participating in JOBS.

(B) At least once every 12 months for clients in the MRS, using APR or participating in JOBS.

(b) When removing a case from the MRS, adjust the redetermination date as follows:

(A) If there are less than six months left in the redetermination period, do not change the date.

(B) If there are more than six months left in the redetermination period, change the review date to be no more than six months from the date the benefit group is taken out of the MRS.

(c) When placing a case in the MRS, do not extend the redetermination date unless the benefit group has completed a redetermination within the last 30 days.

(d) When a client starts working under a JOBS Plus agreement, extend the redetermination date to one month beyond the end of the agreement. If the JOBS Plus agreement ends early, shorten the redetermination period to the original redetermination date or the month following the month in which the agreement ends, whichever is later.

(2) For ADC-EA, ADCM-EA, ADCM-EXT, ERDC, OHP, REF and REFM-BAS, no periodic redetermination is required.

(3) For GA and GAM, redetermine eligibility at least once every 12 months.

(4) For OSIP and OSIPM, complete a redetermination once every 12 months for clients who are not eligible for SSI. No redetermination is required for clients who are eligible for SSI.

(5) For QMB:

(a) For clients who are not eligible for SSI, complete a redetermination once every 12 months.

(b) For clients who are eligible for ADCM or OSIPM under another program, complete the QMB redetermination when the other program's redetermination is due.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.105 & 411.111

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

461-115-0450

Periodic Redeterminations; FS

- (1) Assign the longest possible redetermination period over which the financial group's circumstances can be anticipated, but no longer than 12 months. This depends on how far in advance the group can anticipate their income or the stability of the source of income.
- (2) For benefit groups in which all members are included in a cash or medical program, redetermine eligibility for FS and the other program benefits at the same time. The exception is benefit groups using APR. For these groups, end the FS redetermination period the same month as the end of a future APR period.
- (3) When a client starts working under a JOBS Plus agreement, extend the redetermination date to one month beyond the end of the agreement. If the agreement ends early, shorten the redetermination period to the original redetermination date or the month following the month in which the JOBS Plus agreement ends, whichever is later.
- (4) Redeterminations must include interviews as follows:
 - (a) For FS benefit groups where all members also receive ADC-BAS or GA, the interview, per OAR 461-115-0230, must be conducted at least once every 12 months.
 - (b) For FS benefit groups where all members are elderly or disabled and there is no earned income, the face-to-face interview may be waived but a telephone or home visit interview must be conducted.
 - (c) For all other FS benefit groups, redeterminations must include an interview per OAR 461-115-0230.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.105, 411.111 & 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 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

461-115-0470

Right to Uninterrupted Benefits; FS

- (1) FS benefit groups that are not receiving ADC-BAS or GA are entitled to uninterrupted benefits if they file a redetermination within the following time frames and appear at a scheduled redetermination interview:
 - (a) By the 15th of the last month of the redetermination period for benefit groups whose redetermination period is longer than two months; or
 - (b) Within 15 days of receipt of the Notice of Expiration, for benefit groups whose redetermination period is less than two months:
 - (A) Start counting the 15 days from two days after the date of the postmark on the notice;
 - (B) In cases of dispute, the benefit group may demonstrate that the notice was not received within 17 days from the postmark.
- (2) FS benefit groups receiving ADC-BAS or GA are entitled to uninterrupted FS benefits while their eligibility is

redetermined for the ADC-BAS or GA program. Do not send a Notice of Expiration to these benefit groups.

(3) For FS benefit groups in which GA benefits are closed, the FS benefit amount must be adjusted. If FS eligibility is questionable, shorten the redetermination period, allowing a review of eligibility with uninterrupted benefits.

Stat. Auth.: ORS Ch. 411.105 & 411.111

Stats. Implemented: ORS 411.105 & 411.111

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94

461-115-0510

Notice of Expiration for Redeterminations; FS

(1) When a redetermination is due, send a notice to FS benefit groups that are not receiving ADC-BAS. The notice informs the benefit group of the following:

- (a) The date their redetermination period ends;
- (b) That they must reapply to continue receiving benefits;
- (c) Their right to a hearing.

(2) If the FS redetermination period is shortened because a reported change results in insufficient information to determine how it will affect the benefit group's eligibility and benefit level, send the group a notice informing them of the following:

- (a) That their redetermination period will end the month after they receive the notice;
- (b) That they must reapply to continue receiving benefits;
- (c) Their right to a hearing.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, 411.816, Ch. 412, 413, 414.042, Ch. 416 & 418

Stats. Implemented: ORS 411.105 & 411.111

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

461-115-0530

Certification Period; OHP

(1) For OHP, *certification period* means the months between initial eligibility and when a recertification is due, or between one recertification and the next.

(2) The OHP certification period is as follows:

- (a) For applicants, the initial certification period is the initial month and the following six months;
- (b) Ongoing cases are recertified for a 6-month period;

(c) When a client starts working under a JOBS Plus agreement, extend the certification date to one month beyond the end of the agreement. If the agreement ends early, shorten the certification period to the original date or the month following the month in which the agreement ends, whichever is later.

(3) To receive continuing benefits for the next certification period, OHP benefit groups must file an application and be determined eligible in the last month of their current certification period. Clients found ineligible for the next certification period are not eligible for continuation of benefits, even if they request a hearing.

(4) If a new person (other than an assumed eligible newborn) wishes to be added to an ongoing OHP benefit group:

(a) The entire group must reapply and establish a new certification period;

(b) If adding the new person, or acting on other information from the new application, would make the current benefit group ineligible, the original benefit group remains eligible for the remainder of their certification period.

(5) If a person leaves an OHP benefit group, the individual and other members of the benefit group remain eligible for the remainder of their certification period.

(6) If a current OHP client moves into another current OHP household:

(a) All OHP eligible clients must be combined into one benefit group if the client is required to be in the current household's OHP filing group;

(b) The certification period for the combined benefit group ends at the latest eligibility date for any of the persons in the group.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.105 & 411.111

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95

461-115-0610

Verification; Overview

(1) Clients must provide verification when it is requested by the Division. Verification provided for one program is used as verification for all programs in which the client participates.

(2) Authorized representatives must provide information that shows they are authorized to act for the client, such as a written statement from the client or a copy of the papers authorizing guardianship or power of attorney.

(3) The Division decides which eligibility factors require verification and what the acceptable types of verification are. Other than situations of domestic violence, the eligibility factors that must be verified differ among programs. No verification of domestic violence is required: accept the client's statement.

(4) The Division may verify any factors affecting eligibility or benefit levels when they consider them questionable. Reported information or information on the application is questionable if it is inconsistent with any of the following:

(a) Other reported information.

(b) Other information provided on the application.

(c) Other information received by the branch office.

(d) Information reported on previous applications.

(5) The Division may decide that additional eligibility factors must be verified. This can be done either through the district office or the central office, as part of the Corrective Action Plan.

(6) For all programs except the Assessment Program, deny an application or end ongoing benefits when acceptable verification is not provided.

(7) For the Assessment Program, verification of ADC-BAS eligibility is not required. Accept the client's statement as verification.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650

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

461-115-0630

Required Verification; ADC, ADCM, REF, REFM

(1) For ADC, ADCM, REF and REFM:

(a) Verify the following eligibility requirements at initial application and if changes occur:

(A) SSN or application for an SSN.

(B) Alien status.

(C) Income.

(D) Premium for cost-effective employer-sponsored health insurance.

(E) Pregnancy, if it is an eligibility requirement. The client's statement that the pregnancy was determined by a medical practitioner is adequate for verification.

(F) Additionally for clients who meet the alien status for REF and REFM per OAR 461-120-0120, quarters of work for deprivation based on unemployment.

(b) For all other eligibility requirements, accept the client's statement as verification. Verify any information that is questionable.

(2) For ADC-EA and ADCM-EA, waive verification (except for the emergent need) if it is not available in time to meet the emergent need.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650

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 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 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-115-0640

Required Verification; ERDC

For ERDC, verify eligibility requirements as follows:

- (1) Verify the following at initial application:
 - (a) Income;
 - (b) Second parent unable to provide adequate child care;
 - (c) Special care needed for over-age child or child with disability;
 - (d) All other eligibility requirements, if questionable;
 - (e) Additionally for ERDC-SBG, the student caretaker's alien status and student status.
- (2) Verify the following when they change:
 - (a) Sources of income, and related changes in the amount of income;
 - (b) Additionally for ERDC-SBG, the student caretaker's alien status and student status.
- (3) Verify the following items from the Periodic Review form:
 - (a) Earned income from the past two months;
 - (b) Unearned income, but only if it has changed;
 - (c) Additionally for ERDC-SBG, the student caretaker's student status.

Stat. Auth.: ORS 411.060 & 411.650

Stats. Implemented: ORS 411.650 & PL 103-66

Hist.: AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94

461-115-0650

Required Verification and When to Verify; FS

- (1) For FS, verify all the following factors:
 - (a) Identity of the applicant and the authorized representative(s).
 - (b) Residency in Oregon.
 - (c) Alien status and work quarters, for non-citizens whose alien status eligibility is based on 40 qualifying quarters.
 - (d) SSN or application for an SSN.
 - (e) For cases being evaluated for disqualification due to a job quit or reduced hours, the reason for the job quit or reduced hours.

- (f) Countable income, except as specified in section (4) of this OAR.
 - (g) The actual amounts paid for utility expenses (if the standard utility allowance is not used).
 - (h) Medical expenses, if they are used as a deduction.
 - (i) The amount of legally obligated child support and the amount actually paid.
 - (j) Questionable information.
- (2) If the client cannot verify actual utility or medical expenses claimed as deductions, do not use the unverified expense to determine benefit level.
- (a) If the actual amounts paid for utility expenses exceed the FS standard utility allowance, use the standard utility allowance until the actual utility expenses are verified.
 - (b) If the financial group is not eligible for the standard utility allowance, verify the actual amounts paid for utility expenses before allowing any utility deduction.
- (3) Except for income changes covered under section (4) of this OAR, verify eligibility factors in section (1) above at initial application and when changes in these eligibility factors are reported. In addition:
- (a) For FS cases in the MRS, verify earned income for the report month even if it has not changed.
 - (b) For FS cases using APR, verify the last two months' earned income with each Periodic Review form.
- (4) For FS cases not in APR or MRS, do not verify a reported income amount if all the following are true:
- (a) The client reports their source of income has not changed.
 - (b) The amount has changed by \$25 or less.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.650 & 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 12-1993, f. & cert. ef. 7-1-93; 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 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-115-0690

Verification for FS Expedited Service

- (1) Applicants for FS expedited services must make a reasonable effort to provide verification of eligibility factors.
- (2) Filing groups that were on FS in another state the same month they apply for FS benefits in Oregon must verify that they will not use FS benefits from the other state and FS benefits from Oregon in the same month. They can provide this verification by signing a statement attesting to the following:
 - (a) They did not receive FS benefits from the other state for the month in which they are applying for FS benefits in Oregon; and
 - (b) If they receive FS benefits from the other state for a month in which they receive FS benefits in Oregon, they will do the following:

- (A) They will not use the other state's benefits; and
- (B) They will report receipt of the other state's benefits and will turn them in to the Division within five days. Failure to do this will result in an intentional program violation.
- (3) Postpone verification of eligibility factors (except identity) for FS expedited services if requiring immediate verification would cause a delay in issuing benefits.
- (4) The time limits for postponing verification of eligibility factors for FS expedited services are as follows:
 - (a) For all filing groups that apply before the 15th of the month, postponed verification must be provided before the second month's benefits are issued;
 - (b) For filing groups that apply after the 15th of the month, postponed verification must be provided before the third month's benefits are issued.
- (5) If the benefit group's application is approved for only one month, verification must be provided at redetermination. Give the benefit group a form that says:
 - (a) Their benefits are approved for one month; and
 - (b) To receive further benefits, they must reapply and provide the postponed verification.
- (6) If the benefit group's application is approved for more than one month, give the group a form that says:
 - (a) They will not receive further benefits until they provide the postponed verification; and
 - (b) If verification results in a change in eligibility or benefits, the branch will act on these changes without giving additional notice before making the change.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.116, 411.120, 411.300, 411.620, 411.632, 411.700, 411.710, 411.816, 412.025, 412.520, 413.009, 414.032, 414.042, Ch. 416 & 418

Stats. Implemented: ORS 411.650 & 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

461-115-0700

Required Verification; GA, GAM, OSIP, OSIPM, QMB

For GA, GAM, OSIP, OSIPM and QMB, verify all eligibility requirements in the following situations:

- (1) At initial application.
- (2) If changes occur.
- (3) If information is questionable.

Stat. Auth.: ORS 411.060, 411.070, 411.105 & 411.620

Stats. Implemented: ORS 411.650

Hist.: AFS 19-1993, f. & cert. ef. 10-1-93

461-115-0705

Required Verification; OHP

For OHP, verify eligibility requirements as follows:

(1) Verify the following at initial application:

(a) SSN or application for an SSN;

(b) Alien status for persons who indicate they are not U.S. citizens;

(c) Proof of Indian heritage for persons not required to pay premiums per OAR 461-135-1100;

(d) Income from the past two months and income already received in the budget month:

(A) If verification is not available for a month, use the previous month's verification, if it is a reasonable estimate of anticipated income;

(B) If the previous month's income is not a reasonable estimate for a month's income, accept the client's statement.

(2) Verify the following at recertification:

(a) Unearned income, but only if it has changed;

(b) Earned income from the two months prior to the budget month. If verification is not available for a month, use available verification if it is reasonable.

(3) Verify the following when it is reported or changed:

(a) Pregnancy. This must be determined and verified by a medical practitioner;

(b) Amount of the premium for cost-effective employer-sponsored health insurance.

(4) Clients requesting waiver of a premium arrearage must make a reasonable effort to provide verification of the reason for requesting the waiver. A waiver may be approved per OAR 461-135-1130 if the client's verification or statement is reasonable.

(5) For all other eligibility requirements, including resources, accept the client's statement.

(6) Verify any information that is questionable.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.650 & 414.025(2)(u)

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96

461-115-0710

Types of Verification

(1) There are three types of verification:

- (a) Documentary verification, which is written evidence that confirms the truth of information. This is the primary source of verification;
- (b) Collateral contact, which is written or oral evidence given by a third party that confirms the truth of information. The third party must have direct knowledge of the information and not be a member of the filing group;
- (c) A home visit made by a Division representative.

(2) Branch staff must determine which type of verification is acceptable for specific eligibility factors and specific situations.

(3) When requesting information from a financial institution, have the client sign and date an authorization form for each request. Name the specific financial institution on the form before the client signs. Send the form to the financial institution and keep a copy in the branch.

(4) For ADC-BAS and ADCM-BAS, only the following can be used to verify quarters of work for a PWE:

- (a) Pay stubs;
- (b) Wage tax receipts;
- (c) State or federal income tax returns;
- (d) Self-employment bookkeeping records;
- (e) Employer's wage records;
- (f) Statements from employers. This may include personnel officers, supervisors or other employees of the company who have direct knowledge of the client's wages. The person making the statement must provide evidence (such as employment records, business correspondence, etc.) that they are or were employees of the company;
- (g) Other agencies who receive reports of the client's income directly from the employer.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.620, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 411.650

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 19-1993, f. & cert. ef. 10-1-93

461-115-0730

Home Visit as Verification

(1) For all programs except FS, a home visit is used as verification if the branch office determines it is necessary. Use the home visit to verify such things as:

- (a) Household composition (including continued absence);
- (b) The need for non-financial services;
- (c) Other necessary factors as determined by the district/ branch.

- (2) For FS, a home visit is used as verification if documentary evidence is insufficient or cannot be obtained. Schedule the home visit in advance with the filing group.
- (3) When making a home visit, consider the following:
 - (a) Home visits to verify eligibility must not needlessly delay eligibility determination;
 - (b) Consider client circumstances (work hours, work search, etc.) when scheduling a home visit;
 - (c) A client can refuse to permit an unscheduled home visit. Such a refusal cannot be used as a reason to deny assistance;
 - (d) Client refusal to permit a scheduled home visit can be used as a reason to deny assistance;
 - (e) Home searches are not permitted as part of a home visit.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.620, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.650

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

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 120

NONFINANCIAL ELIGIBILITY

461-120-0010

Residency Requirements

- (1) To be eligible for benefits, a person must be a resident of Oregon.
- (2) People are residents if they live in Oregon:
 - (a) There is no minimum amount of time a person must live in Oregon to be a resident. However, they must intend to remain in Oregon except for the following:
 - (A) ADC-EA may be issued to help clients return to a former state of residence;
 - (B) FS does not require intent to remain to establish residency;
 - (C) For ADC, ADCM and OHP, people are considered residents if they entered Oregon with a job commitment or looking for work, and are not receiving benefits from another state.
 - (b) Additionally for ADCM-SAC, Oregon is the state of residence for a child who is living in Oregon and receiving Title IV-E substitute care, even though all or part of their maintenance costs are paid by a public agency in another state.
- (3) People are not residents if they are in Oregon solely for vacations.
- (4) People continue to be residents during temporary periods of absence if:
 - (a) They intend to return when the purpose of the absence is completed; and
 - (b) For ADCM, OHP or OSIPM, the absence is evaluated and approved by the branch office.

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 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 2-1994, f. & cert. ef. 2-1-94

461-120-0030

State of Residence for People in a Medical Facility

These residency requirements apply to people in state or private medical facilities such as hospitals, mental hospitals, nursing homes and convalescent centers:

- (1) For the following people, the state of residence is the state where the medical facility is located:
 - (a) People age 21 or older who are capable of indicating intent to reside;
 - (b) People age 21 or older who became incapable of indicating intent to reside after age 21.
- (2) For people under age 21 who are incapable (per OAR 461-120-0050) of indicating intent to reside, or people of any age who became incapable of indicating intent before age 21, the state of residence is one of the following:
 - (a) Their parent's or legal guardian's state of residence at the time of application;
 - (b) The state of residence of the party who applies for benefits on their behalf, if there is no living parent, or the location of the parent is unknown, and there is no legal guardian;
 - (c) Oregon, if:
 - (A) They have been receiving medical assistance in Oregon continuously since November 1, 1981; or
 - (B) They are from a state with whom Oregon has an interstate agreement.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-120-0050

Incapable of Stating Intent to Reside; ADCM, OSIPM, QMB, REFM

For ADCM, OSIPM, QMB and REFM, a person is considered incapable of stating intent to reside if any of the following is true:

- (1) The person's IQ is 49 or less.
- (2) The person has a mental age of seven or less as determined by tests used to establish IQ.
- (3) The person is judged legally incompetent by a court of law.
- (4) Other acceptable medical documentation supports a finding that the person is not capable of indicating intent. Acceptable sources are a physician, a psychiatrist or a psychologist.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-120-0110

Citizen/Alien Status Requirements

The citizen/alien status requirements are as follows:

- (1) To be a member of the benefit group for all programs except CAWEM, ERDC, REF and REFM, a person must meet one of the following:
 - (a) Be a citizen of the United States per OAR 461-120-0115.
 - (b) Per OAR 461-120-0125, be a qualified noncitizen and meet the alien status requirements.
 - (c) Meet amnesty alien requirements per OAR 461-120-0160.
- (2) For a child to be a member of the need and benefit groups for ERDC-SBG, at least one caretaker who is a student must meet citizen/alien status requirements per section (1) of this OAR. If not, the entire filing group is ineligible.
- (3) To be a member of the need and benefit groups for REF and REFM, a person must meet the alien status requirements of OAR 461-120-0120.

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 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

461-120-0115

Citizen Status

The following people are considered United States citizens:

- (1) People born in the United States.
- (2) People born outside of the United States who have at least one U.S. citizen parent, if the person also meets one of the following:
 - (a) They have a certificate of U.S. citizenship.
 - (b) They were born on or after 12-24-52 and prior to 11-14-86, and their citizen parent was physically present in the U.S. or its outlying possessions for 10 years or more, at least 5 of which were after age 14.
 - (c) They were born on or after 11-14-86, and their citizen parent was physically present in the U.S. or its outlying possessions 5 years or more, at least 2 of which were after age 14.
- (3) Citizens of Puerto Rico, Guam, the Virgin Islands, or the Northern Mariana Islands (Saipan, Tinian, Rota and Pagan).

(4) Naturalized citizens.

(5) Nationals from American Samoa or Swains Islands.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: 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 9-1997, f. & cert. ef. 7-1-97

461-120-0120

Alien Status; REF, REFM

For REF and REFM, persons lawfully admitted under any of the following provisions of the Immigration and Nationality Act meet the alien status requirement:

- (1) Section 203(a)(7) -- Aliens admitted as conditional entrants.
- (2) Section 207 -- Aliens admitted as refugees.
- (3) Section 208 -- Aliens granted asylum.
- (4) Section 212(d)(5) -- Aliens paroled:
 - (a) As refugees or asylees. Asylees are individuals who have been granted asylum in the U.S.;
 - (b) Haitians or Cubans who are either:
 - (A) Public interest parolees;
 - (B) Humanitarian parolees.
- (5) Section 584(a) -- Aliens granted immigration status according to the Amerasian Homecoming Act.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92

461-120-0125

Alien Status; Not REF or REFM

- (1) The following people are considered qualified non-citizens:
 - (a) A person lawfully admitted for permanent residence under the Immigration and Nationality Act (INA).
 - (b) A person admitted as a refugee under section 207 of the INA.
 - (c) A person granted political asylum under section 208 of the INA.

- (d) A person for whom the Attorney General has withheld deportation under section 243(h) of the INA.
 - (e) A person who is paroled under section 212(d)(5) of the INA for a period of at least 1 year.
 - (f) A person who is granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980.
 - (g) Certain battered spouses and dependent children who are in the U.S. on a conditional resident status, as determined by INS.
 - (h) Cubans/Haitians who are either public interest or humanitarian parolees.
 - (i) A person granted immigration status according to the Amerasian Homecoming Act, section 584(a) of the INA.
- (2) Qualified non-citizens who were admitted into the U.S. before August 22, 1996, meet the alien status requirement for ADCM, OHP and OSIPM, and for ADC and ERDC-SBG no matter when they were admitted.
- (3) Qualified non-citizens who were admitted into the U.S. on or after August 22, 1996, meet the alien status requirements for ADCM, OHP and OSIPM only if they are one of the following:
- (a) A person granted any of the following alien statuses, if it has been less than 7 years since they received the designated status:
 - (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/Haitians who are either public interest or humanitarian parolees.
 - (E) A person granted immigration status according to the Amerasian Homecoming Act, section 584(a) of the INA.
 - (b) A qualified non-citizen, their spouse and their dependent children, if the qualified non-citizen is one of the following:
 - (A) A veteran of the U.S. Armed Forces with an honorable discharge; OR
 - (B) Active duty personnel in the U.S. Armed Forces (not including active duty for training).
 - (c) Qualified non-citizens, their spouses and dependent children who worked, or are credited with, 40 qualifying quarters under Title II of the Social Security Act.
- (4) For FS, GA, GAM and OSIP:
- (a) The following qualified non-citizens meet the alien status requirements for 5 years for FS and 7 years for GA, GAM and OSIP, after receiving the designated alien status:
 - (A) Refugees admitted under section 207 of the INA.
 - (B) Asylees admitted under section 208 of the INA.
 - (C) A non-citizen whose deportation has been withheld under section 243(h) of the INA.
 - (D) Cubans/Haitians who are either public interest or humanitarian parolees.
 - (E) A person granted immigration status according to the Amerasian Homecoming Act, section 584(a) of the INA.

(b) Qualified non-citizens, their spouses and dependent children meet the alien status requirements with no time limits when the non-citizen is:

(A) A veteran of the U.S. Armed Forces, with an honorable discharge; or

(B) On active duty in the U.S. Armed Forces (other than active duty for training).

(c) Qualified non-citizens, their spouses and dependent children, admitted for permanent residency before 8-22-96, who worked, or were credited with, 40 qualifying quarters under Title II of the Social Security Act, meet the alien status requirement with no time limits.

(5) For non-citizens using qualifying quarters per subsections (3)(c) and (4)(c) of this rule, quarters occurring after 1-1-97 do not count if the non-citizen, their spouse or parent received any federal, means-tested benefit during the quarter. Federal means-tested benefits are ADC, ERDC, FS, Medicaid (except emergency medical), REF and SSI.

(6) Qualified non-citizens, except as specified in sections (3) and (4) of this rule, who entered the U.S. on or after 8-22-96 are ineligible for ADCM, FS, GA, GAM, OHP, OSIP and OSIPM for 7 years beginning on their date of entry into the U.S.

(7) Additionally for ADC, the following people meet the alien status requirements:

(a) People who are permanently residing in the U.S. under the color of law (PRUCOL).

(b) Non-citizens who are currently victims of domestic violence, have been victims of domestic violence in the previous 12 months or are at risk of victimization by domestic violence.

(8) Additionally for GA, GAM and OSIP, qualified non-citizens who were admitted into the U.S. before August 22, 1996, meet the alien status requirement if they meet SSI criteria for disability.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-120-0130

Statement Declaring Citizen/Alien Status

(1) All persons who must meet the citizen/alien requirements of OAR 461-120-0110 (except ERDC-SBG clients) must report their citizen/alien status and sign, under the penalty of perjury, that this information is true.

(a) For all programs except FS, the primary person must sign the citizen/alien statement once for themselves and all the children in the filing group. All other adults must sign for themselves;

(b) For FS, and adult filing group member or an authorized representative must sign the citizen/alien statement once for themselves and everyone else in the filing group.

(2) For ERDC-SBG, there is no requirement to sign the citizen/alien statement.

Stat. Auth. 7 CFR 273.2(b), FNS Indexed Policy Memo 3-91-08

Stats. Implemented: ORS 411.060 & 7 CFR 273.2(b), FNS Indexed Policy Memo 3-91-08

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

461-120-0160

Eligibility for Amnesty Aliens and Family Unity Cases

(1) An amnesty alien is a person with permanent or unexpired temporary status who was admitted under either of the following provisions:

- (a) Section 245A of the Immigration and Nationality Act (referred to as 1/1/82 Residents); or
- (b) Section 210 or 210A of the Immigration and Nationality Act (referred to as SAWs).

(2) For ADC and ERDC-SBG, amnesty aliens with unexpired temporary residence meet alien status requirements, if it has been at least five years since they were granted temporary residence status. Their spouses and unmarried children who were admitted under the Family Unity program are eligible for the same program benefits the amnesty alien receives benefits under.

(3) For ADCM, FS, GA, GAM, OHP, OSIP and OSIPM, amnesty aliens and family unity cases meet the alien status requirement only if they qualify per OAR 461-120-0125.

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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 9-1993(Temp), f. & cert. ef. 5-18-93; AFS 12-1993, f. & cert. ef. 7-1-93; 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

461-120-0180

Eligibility for Sponsored Aliens

(1) A sponsor is a person who has signed an affidavit of support or similar agreement on behalf of the non-citizen as a condition of entry into the United States. A person cannot be a sponsor for their own child or spouse.

(2) The sponsor and their spouse are financially responsible for the non-citizen for the period of time specified in the signed affidavit of support, or until the following happens:

- (a) The non-citizen becomes a naturalized citizen.
- (b) The non-citizen has worked 40 qualifying quarters of work under Title II of the Social Security Act.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97

461-120-0210

Requirement to Provide or Apply for SSN

(1) For all programs except ADC-EA, ADCM-EA, CAWEM, ERDC and OHP, to be included in the need group, a person must:

- (a) Provide their SSN; or
- (b) Apply for a number if they do not have one and provide the number when it is received.

(2) To be eligible for benefits, people applying for ADC-EA, ADCM-EA or CAWEM must provide their SSN if they can.

(3) For ERDC, clients are not required to provide or apply for an SSN.

(4) For OHP, all persons included in the benefit group must provide their SSN or apply for a number and provide the number when it is received.

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 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

461-120-0230

Postponement of SSN Requirement; ADCM, FS, OHP

Postpone the requirement to provide or apply for a SSN in any of the following situations:

(1) A newborn who is assumed eligible for ADCM or OHP based on the eligibility of its mother may receive benefits for up to one year without meeting the SSN requirements.

(2) For FS:

(a) Applicants eligible for FS expedited services may receive their first allotment without meeting the SSN requirement, but must meet the requirement before receiving a second one.

(b) A new person other than a newborn may be added to an existing FS benefit group for the next allotment, but must meet the SSN requirement before the end of the first month of participation.

(c) A newborn may be added to an existing FS benefit group for 6 months or until the group's next redetermination, whichever is later.

(d) Applicants for FS who provide documentary or collateral information that they have applied for an SSN or made every effort to supply the SSA with the necessary information to get a SSN may receive 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 2-1994, f. & cert. ef. 2-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-120-0235

SSN Discrepancy; FS

For FS, if SSA notifies the Division through the computer cross matching that a client's SSN is not valid, the client must clear up the discrepancy. If the client fails to provide information or take other action necessary to verify the number, the entire filing group is ineligible.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-120-0310

Support Assignment Requirement; ADC-BAS

(1) The Division has the authority to pursue and collect child support and spousal support for any ADC-BAS financial group member. By signing the application for assistance, clients agree to turn over any support benefits to the Division. This is called assignment of support.

(2) The amount of support that the Division may retain under the assignment is equal to whichever of the following is less:

- (a) The amount of cash benefits paid, both for current ADC-BAS and for past ADC-BAS for any period of time after August 1, 1975; or
- (b) The total amount of current support and arrearages that has accrued before opening and up to closing the case.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

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 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

461-120-0315

Medical Assignment

(1) For ADCM, GAM, OHP, OSIPM, QMB and REFM, the Division has the authority to collect reimbursement for medical expenses the Division paid for anyone in the benefit group that should have been paid by another party or resource. By signing the application for assistance, clients agree to turn over any rights to health insurance or medical support to the Division. This is called assignment of medical benefits. The Division has the authority to refuse to pay medical expenses for anyone in the benefit group when another party or resource should pay first.

(2) The Division has the authority to collect medical reimbursements from the following sources:

- (a) Any medical support. This is medical coverage through an absent parent available under an order of a court or

administrative agency;

(b) Any third-party payments for medical care. This includes, but is not limited to:

(A) Any commercial insurance (including health or casualty) available through professional associations, unions, fraternal groups, employer-employee benefit plans, or similar plans offering these payments or services, including self-insured and self-funded plans, or profit or non-profit prepaid plans offering either medical services or full or partial payment for services;

(B) A claim for damages from personal injuries.

(3) The Division authority does not include collecting reimbursements from Medicare benefits.

(4) The amount of the Division authority to collect reimbursement is equal to the full amount of medical services paid by the Division on the client's behalf.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-120-0330

Requirement to Pursue Assets

(1) For all programs, except ERDC and FS, to be eligible for benefits, the client must actively pursue any asset (except support and medical coverage) for which they have a legal right or claim, except as follows:

(a) Parents or caretaker relatives who are exempt from JOBS (except PWEs who are exempt due to remoteness per OAR 461-130-0070) are not required to apply for UC benefits.

(b) Clients applying for or receiving any program benefits from the Division are not required to apply for other programs administered by the Division (e.g., ADC clients are not required to apply for ERDC).

(c) ADC filing group members are not required to pursue SSI benefits, but may choose to apply.

(d) People applying for ADC-EA or ADCM-EA are required to pursue assets only if the assets can be made available in time to meet the emergent need.

(e) People are not required to pursue loans.

(2) To pursue available assets, the client must do all the following:

(a) Apply for and satisfy all requirements to receive benefits from other programs.

(b) Pursue legal remedies to obtain assets from any other source if they can secure legal counsel on a contingency fee basis.

(3) For ERDC and FS, there is no requirement to pursue assets.

(4) The penalty for not pursuing assets is that everyone in the filing group is ineligible. In addition when calculating FS benefits, when a cash payment ends due to this penalty, count the amount the cash payment would be if the penalty had not been imposed for the duration of the penalty.

(5) End the penalty when the client provides evidence that they are willing to cooperate.

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 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

461-120-0340

Support Cooperation; ADC-BAS

(1) To be eligible for ADC-BAS and ADCM-BAS, caretaker relatives must cooperate (unless good cause exists per OAR 461-120-0350) in establishing paternity and obtaining support cash payments.

(2) Child support cooperation exists when the client is cooperating with AFS and SED to establish paternity, or to establish or enforce a child support order for any and all children in the ADC or ADCM benefit group, as evidenced by the client having done all the following:

(a) Supplied sufficient information to enable SED to proceed with appropriate action. *Sufficient information* includes, but is not limited to, as many of the following elements of information as possible regarding any and all absent parents of such dependent children:

(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) Time and place of each child's conception (if paternity is not established).

(J) Any known group or organizational affiliations of the absent parent.

(K) Names and addresses of close friends or relatives.

(L) Any other information AFS or SED may request that would help locate or identify an absent parent of any children in the benefit group.

(b) Supplied documentation or explanation of efforts to obtain information requested by AFS or SED (if unable to provide any necessary information listed in section 1 of this OAR).

(c) Kept appointments with AFS and SED related to establishing paternity.

(d) Returned telephone calls or responded to correspondence when requested by AFS or SED.

(e) Otherwise demonstrated a clear willingness to obtain necessary information and to locate and identify each absent or alleged parent, establish legal paternity, establish and enforce a support order, and obtain support payments.

(3) AFS or SED may determine if a client is not cooperating under this OAR. SED must advise AFS whenever they make a determination of noncooperation. AFS shall then:

(a) If the client claims good cause under OAR 461-120-0350 for not cooperating, determine if the client has good cause.

(b) If the client does not claim good cause under OAR 461-120-0350 for not cooperating, or if the client claims good cause and AFS determines that the client does not have good cause, apply penalties per section (4) of this OAR.

(4) The penalties for failure to cooperate with support requirements are:

(a) For benefit groups not currently receiving ADC-BAS, where the failure to cooperate occurs during the process of applying or reapplying for ADC-BAS, total ineligibility for the filing group.

(b) For benefit groups receiving ADC-BAS when failure to cooperate is determined, the net monthly ADC-BAS benefit amount, after income deductions and reductions for JOBS noncooperation are applied (where applicable), shall be reduced by the following percentages:

(A) 25% for the first month following the month in which failure to cooperate is determined.

(B) 50% for the second month following the month in which failure to cooperate is determined.

(C) 75% for the third month following the month in which failure to cooperate is determined.

(D) 100% (total ineligibility for the benefit group) for the fourth month following the month in which failure to cooperate is determined, and all subsequent months in which failure to cooperate continues.

(E) For benefit groups whose benefits were reduced because of noncooperation with SED and are still reduced as of October 1, 1997, the penalty starts at the second month of noncooperation (i.e., 50% benefit reduction).

(F) For filing groups who are required to complete Pay-After-Performance (PAP) activities, the penalty will be imposed before their benefits are prorated based on the PAP activities.

(c) For ADCM-BAS, no eligibility for the person who fails to cooperate with support requirements.

(d) For FS, when an ADC-BAS payment is reduced or ends due to SED noncooperation, counting the amount the ADC-BAS benefit payment would have been if not reduced for noncooperation, for the duration of the penalty.

(5) End the support noncooperation penalties when the client cooperates by completing the necessary forms, providing requested information, scheduling an appointment with SED or taking whatever other actions are required to indicate cooperation per section (2) of this OAR.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040 & 418.100

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

461-120-0345

Medical Cooperation

(1) Medical coverage is the following:

(a) Any medical support. This is medical coverage through an absent parent available under an order of a court or administrative agency.

(b) Any third-party payments for medical care. This includes, but is not limited to:

(A) Any commercial insurance (including health or casualty) available through professional associations, unions, fraternal groups, employer-employee benefit plans, or similar plans offering these payments or services, including self-insured and self-funded plans, or profit or non-profit prepaid plans offering either medical services or full or partial payment for services.

(B) Coverage under Medicare.

(C) A claim for damages from personal injuries.

(2) To be eligible for all programs except ERDC and FS, the client must cooperate (unless good cause exists per OAR 461-120-350) in obtaining medical coverage under the following conditions:

(a) Cooperation includes, but is not limited to, applying for, accepting and maintaining all available resources and identifying and providing information to assist the Division in obtaining medical coverage.

(b) For ADC, ADCM, REF and REFM, the caretaker relative must cooperate for the dependent children in the filing group.

(c) For OHP, the primary person and all the adults in the filing group must cooperate. In addition, caretakers must cooperate for children in the filing group.

(d) For ADC-EA and ADCM-EA, clients are required to cooperate only if the medical coverage can be made available in time to meet the emergent medical need.

(e) For ADCM-BAS, ADCM-EXT, ADCM-SAC, GAM, OHP, OSIPM (except OSIPM-MN) and REFM-BAS, clients must apply for and accept cost-effective, employer-sponsored health insurance. They must maintain this cost-effective coverage as long as they receive program benefits.

(3) The penalty for failure to cooperate with medical coverage is:

(a) For all programs except ADC-BAS and OHP, removing the person who refuses to cooperate from the need group.

(b) For ADC-BAS, the penalties are as follows:

(A) For benefit groups not currently receiving ADC-BAS when the failure to cooperate occurs during the process of applying or reapplying for ADC-BAS, total ineligibility for the filing group.

(B) For benefit groups receiving ADC-BAS when failure to cooperate is determined, the net monthly ADC-BAS benefit amount, after income deductions and reductions for JOBS noncooperation are applied (where applicable), shall be reduced by the following percentages:

(i) 25% for the first month following the month in which failure to cooperate is determined.

(ii) 50% for the second month following the month in which failure to cooperate is determined.

(iii) 75% for the third month following the month in which failure to cooperate is determined.

- (iv) 100% (total ineligibility for the benefit group) for the fourth month following the month in which failure to cooperate is determined, and all subsequent months in which failure to cooperate continues.
- (v) For benefit groups whose benefits were reduced because of noncooperation with SED and are still reduced as of October 1, 1997, the penalty starts at the second month of noncooperation (i.e., 50% benefit reduction).
- (vi) For filing groups who are required to complete Pay-After-Performance (PAP) activities, the penalty will be imposed before their benefits are prorated based on the PAP activities.
- (c) For OHP, removing the person who refuses to cooperate from the benefit group.
- (d) Additionally, when calculating FS benefits, when a cash payment is reduced or ends due to this penalty, count the amount the cash payment would be if the penalty had not been imposed for the duration of the penalty.
- (e) For ADCM, GAM, OHP, OSIPM and REFM, there is no penalty for pregnant clients who fail to cooperate.
- (4) End the noncooperation penalty for failure to cooperate with medical requirements:
 - (a) When the client provides evidence that they are willing to cooperate; or
 - (b) For accepting and maintaining employer-sponsored, cost-effective health insurance, when the client enrolls in the insurance plan.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040 & 418.100

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

461-120-0350

Support and Medical; Good Cause for Failure to Cooperate

- (1) A client may claim good cause for not cooperating with Support Enforcement Division (SED) to establish paternity or to collect child support and medical support.
- (2) Good cause for failure to cooperate with support and medical requirements exists when:
 - (a) Cooperation is reasonably anticipated to result in emotional or physical harm to the dependent child.
 - (b) Cooperation is reasonably anticipated to result in emotional or physical harm to caretaker relatives that would reduce their ability to care for a dependent child.
 - (c) One of the following circumstances exists and the Division believes that continuing efforts to obtain support would be detrimental to the dependent child:
 - (A) The child was conceived as a result of incest or rape.
 - (B) Legal proceedings for adoption are proceeding before a court.
 - (C) 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. This good cause reason is limited to three months.
- (3) For ADCM-BAS, ADCM-EXT, ADCM-SAC, GAM, OHP, OSIPM (except OSIPM-MN) and REFM-BAS, good

cause for failure to enroll in cost-effective health insurance exists when the Division fails to notify the client of the requirement to enroll in a timely manner.

(4) The Division is responsible for informing a client in writing of their right to claim good cause at application and at each redetermination of eligibility.

(5) The Division is responsible for determining whether a client has good cause for not cooperating with SED. In cases where SED determines that a client is not cooperating, SED will advise the Division. The Division is responsible for determining whether the client had good cause or if noncooperation penalties shall be applied.

(6) If good cause is established, review for continued risk as appropriate.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040 & 418.100

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

461-120-0360

Support and Medical; Evidence and Time Limit to Give Evidence of Good Cause for Failure to Cooperate

(1) Evidence of good cause for refusal to cooperate includes, but is not limited to, the following:

- (a) A client's statement, for clients who believe that pursuing support will put their safety at risk.
- (b) Court records, other legal records, or written statements from a public or licensed private social agency or an attorney regarding possible or pending adoption.
- (c) Sworn statements from individuals other than the client with knowledge of the circumstances that provide the basis of the good cause claim.

(2) A client who claims good cause for refusing to cooperate with support or medical requirements, on grounds other than those listed in subsection (1)(a) of this OAR, has 20 days from the date of refusal to provide the statement or evidence.

(3) When the client requires additional time because of the difficulty of obtaining corroborative evidence, allow a reasonable period of time for the client to provide verification.

(4) Consider clients to have good cause for not cooperating if they make a good faith effort to provide verification, but are unable to do so.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040 & 418.100

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 28-1992, f. & cert. ef. 10-1-92; AFS 19-1997, f. & cert. ef. 10-1-97

461-120-0510

Age Requirements for Clients to Receive Benefits

Use the person's actual date of birth in determining their age. If the month of birth is unknown, use July. If the day of birth is unknown, use the 1st of the month.

- (1) To be eligible for ADC, ADCM-BAS, ADCM-EA and ADCM-EXT:
 - (a) The child must be:
 - (A) Under age 18; or
 - (B) Age 18 and regularly attending school full time per OAR 461-120-0530.
 - (b) The caretaker relative may be any age.
- (2) To be eligible for ADCM-SAC, the child must be under age 21.
- (3) To be eligible for payment of child care costs for ADC-BAS or ERDC, the child must be:
 - (a) Under age 13; or
 - (b) Under age 18 and meet one of the following:
 - (A) Physically or mentally incapable of caring for themselves determined in one of the following ways:
 - (i) By a physician, nurse practitioner, licensed or certified psychologist, or licensed clinical social worker.
 - (ii) Eligibility for SSI.
 - (B) Under court supervision.
 - (C) Receiving foster care.
 - (D) Eligible for the special need rate per OAR 461-155-0150.
- (4) To be eligible for FS, OSIP-AB, OSIPM-AB, OSIPM-MN, QMB-BAS, QMB-SMB, REF or REFM-BAS, the client may be any age.
- (5) To be eligible for GA, GAM or OSIP-AD, the client must be age 18 to 65.
- (6) To be eligible for OHP:
 - (a) Under the 100% standard, clients can be any age.
 - (b) Under the 133% standard, clients must be children under the age of six or pregnant women of any age.
- (7) To be eligible for OSIPM-AD, the client must be:
 - (a) Age 18 to 65; or
 - (b) Receiving SSI.
- (8) To be eligible for OSIP-OAA or OSIPM-OAA, the client must be age 65 or older.
- (9) To be eligible for QMB-DW, the client must be under age 65.

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 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

461-120-0530

Regular School Attendance

- (1) For ADC, ADCM, OHP, REF and REFM, regular school attendance 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 state School for the Deaf or the state School for the Blind.
- (2) The student's full-time or half-time status is defined by the school.
- (3) Regular attendance continues during an illness, family emergency or vacation, as long as the student intends to return to school. Students are considered to be attending for the full month in which they complete or discontinue school or training.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94

461-120-0610

Requirement to Live with a Caretaker; ERDC, REF

- (1) A caretaker:
- (a) Is the person, regardless of age, who is responsible for the care, control, and supervision of the child; and
 - (b) Does not have to be related to the child.
- (2) The status of caretaker ends when care, control, and supervision are given to, or accepted by, another person for 30 days or more.
- (3) To be eligible for ERDC, a child must live with a caretaker.
- (4) To be eligible for REF and REFM, a child under age 18 must live with a caretaker.
- (5) For REFM, the public or private agency granted custody is the caretaker of children under age 18 who are wards of

the court.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-120-0630

Requirement to Live with a Caretaker Relative; ADC, ADCM

(1) A caretaker relative is the person, regardless of age, who is responsible for the care, control, and supervision of the dependent child and is related to the child in one of the ways listed below. For the purposes of this OAR, if any of the following relationships are established through marriage, the relationship remains the same even if the marriage is terminated by death or divorce.

(a) The biological parent. The following applies when determining if the alleged father may be the caretaker relative when the mother is absent:

(A) If there are documents that verify the alleged father is the father of the child, he may be the caretaker relative. If, at a later date, SED proves he is not the father, he can no longer be the caretaker relative.

(B) If there are no documents that verify the alleged father is the father of the child, he cannot be the caretaker relative until SED legally establishes that he is the father.

(b) For the purpose of this OAR, the biological parent or other blood relative can be the caretaker relative, even if a legal adoption exists, in the following circumstances:

(A) The biological parent can be the caretaker relative if the child lives with them and the legal parent (the adoptive parent) has given up care, control and supervision of the child.

(B) People who were related to the child through the biological parent may be the caretaker relative if the child lives with them, the adoptive parent has given up care, control and supervision of the child, and the person met the degree of relationship specified in this OAR before the adoption.

(c) The adoptive parent and any people related to the child through the adoption who meet the degree of relationship specified in this OAR.

(d) Blood relative or half-blood relative (sharing one common natural or adoptive parent). This includes:

(A) Siblings, aunts, uncles, first cousins, first cousins once removed, nephews, or nieces; and

(B) Persons of preceding generations denoted by the prefixes of grand, great, great-great, or great-great-great.

(e) Stepfathers, stepmothers, stepbrothers or stepsisters.

(f) The spouse of anyone listed in this section of this OAR.

(2) The status of caretaker relative ends when care, control, and supervision of the child is given to, or accepted by, another person for 30 days or more.

(3) To be eligible for ADC-BAS, ADCM-BAS and ADCM-EXT, a child must live with a caretaker relative.

(4) To be eligible for ADC-EA and ADCM-EA, a child must either live with a caretaker relative or have lived with one within the last six months.

Stat. Auth.: ORS 418.040 & 418.100

Stats. Implemented: ORS 418.040 & 418.100

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. 10-14-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 125

BASIS OF NEED

461-125-0010

Deprivation as an Eligibility Requirement

- (1) To be eligible for ADC-BAS and ADCM-BAS, a dependent child 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.
- (3) For the purpose of determining deprivation, parent means a person who is currently the biological parent, adoptive parent, or stepparent.

Stat. Auth.: ORS 411.060, 411.070, 411.595, 412.520, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93

461-125-0030

Determining Deprivation of a Child

- (1) For ADC-BAS and ADCM-BAS, determination of deprivation for a child who lives with one parent 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 under-employment of the parent who is the ADC-PWE; or
 - (b) The incapacity of a parent.
- (3) If a child meets deprivation on more than one basis, the branch office may choose which reason to use. However, the

choice cannot adversely affect the child's eligibility.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-125-0050

Determining Deprivation for Child/Unborn without Legal Paternity

- (1) For ADC-BAS and ADCM-BAS, deprivation is based only on incapacity or unemployment if:
 - (a) The mother and alleged father of the dependent child or unborn are living together; and
 - (b) 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.
- (2) If eligibility based on incapacity or unemployment exists, both parents must cooperate with SED to establish paternity. A parent who refuses to cooperate is disqualified per OAR 461-120-0340.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 183, 416 & 418

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 28-1992, f. & cert. ef. 10-1-92

461-125-0060

Deprivation Based on Death

If either parent of a child is deceased and the other parent has not remarried, or has remarried but the stepparent is not living in the home, the child meets ADC-BAS and ADCM-BAS deprivation based on death.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009 & 414.032

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91

461-125-0090

Deprivation Based on Continued Absence of a Parent

For ADC-BAS and ADCM-BAS, there is deprivation based on continued absence if all the following are true:

- (1) The child lives with only one parent 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.

(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, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 183, 416 & 418

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 13-1991, f. & cert. ef. 7-1-91

461-125-0110

Situations of Deprivation Based on Continued Absence

For ADC-BAS and ADCM-BAS, if the child lives with only one parent 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 work day.
- (3) The dependent child is adopted by a single parent and the parent is not living with a spouse.
- (4) The identify of the absent parent is not known or more than one person is identified as the child's father and legal paternity has not been established.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 183, 416 & 418

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 13-1991, f. & cert. ef. 7-1-91

461-125-0120

Situations of No Deprivation Based on Continued Absence

For ADC-BAS and ADCM-BAS, 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 within each calendar month. This means:
 - (a) Each parent 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, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009 & 414.032

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92

461-125-0130**Evidence of Deprivation Based on Continued Absence**

For ADC-BAS and ADCM-BAS, there is deprivation based on continued absence (except as specified in OAR 461-125-0120) if the absent parent is not living in the same home as the dependent child, per section (1) of this rule, and the absent parent's visits with the child in the child's home do not exceed four times per week or a total of 12 hours per week. Use the following guidelines in deciding whether the absent parent is living in the same home as the dependent child:

(1) 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:

(A) The filing group was receiving ADC-BAS when the absent parent and dependent child began living in separate homes;

(B) The parents have separated in order to avoid physical or mental abuse, and the caretaker relative has signed a Declaration of Abuse;

(C) The parents have filed for divorce or legal separation;

(D) The absent parent and dependent child have established separate verifiable residences, as shown by one of the following:

(i) A lease agreement or rent receipt for that residence;

(ii) Keeping regularly used personal possessions and clothing at that residence and providing a statement from someone at the residence that they live there;

(iii) For absent parents or dependent children who are homeless, there must be at least two collateral statements testifying to their whereabouts.

(2) 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.

(3) 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 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;

(c) The absent parent:

(A) Has and uses sleeping, bathroom and kitchen facilities separate from the dependent child and caretaker relative; or

(B) 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, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 411.730, 412.025, 412.520, 413.009 & 414.032

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92

461-125-0150

Determining ADC-PWE; ADC, ADCM

- (1) For ADC-BAS and ADCM-BAS, the ADC-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 ADC-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 ADC-PWE is out of the household group for at least one full calendar month. If so, the branch office must redetermine the ADC-PWE.
- (3) To determine the PWE for REF or REFM-BAS (ADC-PWE), apply the criteria used in determining the PWE for ADC-BAS and ADCM-BAS. For REF and REFM-BAS, individuals without dependent children can be the PWE.

Stat. Auth.: ORS 411.060, 418.040 & 418.100

Stats. Implemented: ORS 411.060, 418.040 & 418.100

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

461-125-0170

Deprivation Based on Unemployment or Underemployment of the ADC-PWE

Deprivation based on the unemployment or underemployment of the ADC-PWE exists if all the following are true:

- (1) A child lives with two parents.
- (2) The ADC-PWE is unemployed or underemployed.
- (3) For clients who meet the refugee status requirements of OAR 461-120-0120, the ADC-PWE meets the work history requirement.
- (4) The ADC-PWE is not participating in a labor dispute.
- (5) The ADC-PWE is not unemployed from their most recent job for reasons that would or do result in disqualification for UC benefits in Oregon. Most recent job is the last job the ADC-PWE had in which they worked or were hired to work at least 100 hours a month. For applicants, if the UC disqualification is from employment that ended more than 12 months before the date of request, it does not affect the client's eligibility for ADC-BAS.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.075, 418.180 & 418.185

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

461-125-0190

Unemployment or Underemployment of the ADC-PWE

Consider an ADC-PWE unemployed or underemployed if their monthly earned income is less than the countable income limit for their need group size.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.075, 418.180 & 418.185

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; 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

461-125-0210

ADC-PWE Work History; REF, REFM

To meet the work history requirement, people who meet the REF and REFM alien status requirements per OAR 461-120-0120 must satisfy one of the following criteria:

(1) Received UC within 12 months before the month of requesting assistance or would have qualified to receive UC, but:

(a) They did not apply; or

(b) They performed work that was not covered by UC.

(2) Have 6 or more quarters of work within any 13 completed, consecutive calendar quarters per the following guidelines:

(a) A quarter is any of the 3-month periods ending on March 31, June 30, September 30, or December 31.

(b) To be counted as a quarter of work, the ADC PWE must meet one of the following criteria sometime within the quarter:

(A) Earned at least \$50.

(B) Participated in an ADC Community Work Experience Program.

(C) Participated in the WIN or JOBS program while receiving ADC or ADCM-EA.

(D) Attended elementary school, high school, vocational or technical training, or a training program administered by JTPA full-time as defined by the educational or training institution. Vocational or technical training is occupation-specific training that can be completed within 24 months and ends on a specified date. Counting full-time education toward a work history is limited to four quarters.

(c) The 13th consecutive quarter must end within 12 months before the date of request for assistance.

Stat. Auth.: ORS 418.075, 418.180 & 418.185

Stats. Implemented: ORS 418.075, 418.180 & 418.185

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 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-125-0230

Deprivation Based on the Incapacity of a Parent

For ADC-BAS and ADCM-BAS, deprivation based on incapacity exists if a child lives with two parents, and:

- (1) At least one parent 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 for ADC-BAS or ADCM-BAS; and
 - (b) Substantially reduces or eliminates the parent's ability to support or care for their dependent child, 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 Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-125-0250

Criteria for Determining the Incapacity of a Parent

For ADC-BAS and ADCM-BAS, a condition is considered to substantially reduce or eliminate the parent's ability to support or care for their dependent child if, as a result of the condition, one of the following criteria is met:

- (1) The parent is unable to provide adequate care for the dependent child without help from others. Adequate care includes feeding, cleaning and supervising the 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 Ch. 183, 411, 412, 413, 414, 416 & 418

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

461-125-0255

Change in Basis of Deprivation

When an absent parent moves into an ongoing ADC-BAS household, or another change occurs that could affect their deprivation status, give the filing group 30 days to establish eligibility using incapacity or unemployment as the basis of deprivation.

- (1) If they establish eligibility, supplement benefits back to the date that all eligibility factors are met and verified.
- (2) If they do not establish eligibility, end ADC-BAS at the end of the month in which the 30-day time limit expires.
- (3) If they establish eligibility based on unemployment, but one parent fails to complete the required applicant JOBS activity:
 - (a) Close ADC-BAS; and
 - (b) Retroactively add the second parent to the ADCM case effective the date all other eligibility requirements are met and verified.

Stat. Auth.: ORS 411.060, 418.040, 418.100

Stats. Implemented: ORS 411.060

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96

461-125-0310

Eligibility for OSIP Blindness, Old Age and Disability

To be eligible for OSIP, a person must be one of the following:

- (1) Blind at any age (AB).
- (2) Age 65 or over (OAA).
- (3) Age 18 or over and disabled (AD). Disabled children under age 18 can be eligible for OSIPM only.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-125-0330

Blindness as the Basis of Need

For OSIP and OSIPM, clients meet blindness as the basis of need if any of the following is true:

- (1) They are receiving SSB or SSI benefits based on blindness. Eligibility continues as long as their SSB or SSI eligibility continues.
- (2) They were eligible for and received AB in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously blind as defined by Oregon requirements that were in effect in 1973.
- (3) They are determined by the MDRT to meet the following OSIP blindness criteria:
 - (a) Vision of 20/200 or less in the better eye with a corrective lens; or
 - (b) A limitation in vision field to an angle of 20 degrees or less.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.710, 412.025, 412.520, 413.009, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91

461-125-0350

Old Age as the Basis of Need

For OSIP and OSIPM, clients meet old age as the basis of need if they are age 65 or over.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-125-0370

Disability as the Basis of Need

For OSIP and OSIPM, clients meet disability as the basis of need if any of the following is true:

- (1) They are receiving SSB or SSI based on disability. Eligibility continues as long as their SSB or SSI eligibility continues.
- (2) They were eligible for and received AD 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.
- (3) They are determined by the MDRT to meet SSA disability criteria:
 - (a) Inability to perform any substantial work for pay or profit as a result of a medically proven physical or mental impairment; and
 - (b) The disability has lasted, or is expected to last, at least 12 months, or is diagnosed as terminal.

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 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95

461-125-0390

Medicaid Disability Review Team (MDRT)

Refer the following clients to the Medicaid Disability Review Team:

- (1) Clients applying for OSIPM-MN whose source of income is not based on disability and who are not eligible for OHP.
- (2) Clients applying for Citizen/Alien-Waived Emergent Medical benefits.

Stat. Auth.: 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640, 411.650, 411.700 & 411.816

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 20-1991, f. & cert. ef. 10-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 13-1994, f. & cert. ef. 7-1-94

461-125-0510

Impairment Criteria; GA, GAM

- (1) Effective June 1, 1996, to be eligible for GA and GAM, an individual must meet the following criteria:
 - (a) Be unable to perform any work activity by reason of any medically determinable physical and/or mental impairment that can be expected to last for a continuous period of no less than 12 months from the date of request. This medical condition must meet or equal the Listings of Impairment found in 20 CFR Part 404, Subpart P, Appendix 1; or
 - (b) Have a severe physical or mental impairment that does not fully meet Listings of Impairment found in 20 CFR Part 404, Subpart P, Appendix 1, that would make the individual unable to return to any previous work for a period of no less than 12 months from the date of request. As used in this rule, severe impairment means an impairment that significantly limits a person's physical or mental abilities to do basic work activity. In addition, the individual must meet one of the following:
 - (A) Age 55 or over.
 - (B) Age 50 or over and did not complete the 12th grade or obtain a GED.
 - (C) Age 45 or over and illiterate or unable to communicate in English. As used in this rule, illiterate means the inability to read or write in English. A person is illiterate if they cannot read or write a simple message, such as instructions in an inventory list, even though the person can sign his or her name. Generally, an illiterate person has had little or no formal schooling.
 - (c) Have a physical and/or mental impairment that does not fully meet GA impairment criteria, but the person qualifies for Title XIX benefits and is eligible for long-term care services or MHDDSD substitute home care for 30 days or more. The person must continue to meet SDSD or MHDDSD service priorities based on the SDSD 360 service assessment to be eligible for GA.

- (2) SSI and/or SSDI eligibles who have been identified by SSA as having a drug addiction and/or alcoholism (DAA) material to their finding of disability are not eligible for GA if:
- (a) They are terminated by SSA for non-cooperation with treatment; or
 - (b) Their SSI and/or SSDI benefits are terminated because they are not disabled independent of DAA.
- (3) If the client is unable to do so, the Division must obtain medical evidence that documents a claim of physical and/or mental impairment which would prevent the client from engaging in any work activity for at least 12 months as defined in OAR 461-125-0600 and in section (1) of this rule.

[ED NOTE: The Appendix referenced in this rule is not printed in the OAR Compilation. Copies are available from the Adult and Family Services Division.]

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 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

461-125-0600

GA Impairment; Presumptive GA Medical Condition

Clients who have a severe physical, mental, or special senses and speech impairment that is expected to last at least 12 continuous months from the date of request can be assumed to meet GA impairment criteria with documentation of the following conditions:

- (1) Renal disorder with chronic hemodialysis or peritoneal dialysis required or kidney transplant performed within 12 months.
- (2) Permanent visual impairment with visual acuity correctable to no better than 20/200 in best eye.
- (3) Current diagnosis of acute leukemia.
- (4) Major mental disorder (e.g., schizophrenia, bipolar, psychosis), and:
 - (a) A documented history of two or more continuous years in a mental institution; or
 - (b) Two or more admissions to a hospital psychiatric care unit within the last twelve months.
- (5) Mental retardation with any WAIS-R documented IQ of 59 or less. Estimated WAIS-R is not acceptable.
- (6) Mental retardation with all three WAIS-R scores documenting IQ of 75 or less and other significant physical or mental impairment.
- (7) Current diagnosis of breast cancer with distant metastases.
- (8) Any current diagnosis of cancer with metastasis to brain or spinal cord.
- (9) Current diagnosis of small cell (oat cell) carcinoma of lung.
- (10) Current diagnosis of primary or metastatic cancer of the liver, gallbladder or bile ducts.

- (11) Severe cardiac impairment assessed as Class III or higher by the New York Heart Association classification system within the last 30 days.
- (12) Severe chronic heart failure (CHF); and
 - (a) Ejection fraction of 30% or less measured within the last 30 days; or
 - (b) Cardiac enlargement (cardiomegaly) documented within the last 30 days.
- (13) Aortic aneurysm, repaired or unrepaired, diagnosed within the last 90 days.
- (14) Chronic cor pulmonale (not acute and reversible).
- (15) Malnutrition resulting from any gastrointestinal disorder and persisting despite treatment.
- (16) Chronic anemia with hematocrits 30% or less due to any diagnosis and persisting despite treatment.
- (17) Chronic thrombocytopenia with platelet counts below 40,000/ cubic millimeter due to any diagnosis and persisting despite treatment.
- (18) Current diagnosis of multiple myeloma.
- (19) Current diagnosis of aplastic anemia.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.710

Hist.: AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-125-0610

Employment for a Determination of Impairment; GA, GAM

For the purpose of establishing GA and GAM eligibility under GA impairment criteria, *work activity* means performing any kind of work activity that averages at least eight hours a day, for which income is received, regardless of the adequacy to meet need, and includes the following factors:

- (1) Do not consider the presence of available employment in the area and place of residence in determining GA impairment criteria; and
- (2) A person working against medical advice, or engaged in work activities with an activity center or sheltered workshop, is considered eligible if they meet the GA impairment criteria.

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 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 19-1997, f. & cert. ef. 10-1-97

461-125-0650

Referral to SSI; GA, GAM

(1) To be eligible for GA and GAM, a client must do all the following:

(a) Pursue SSI until all appeals are exhausted by:

(A) Verifying that an application for SSI has been made before the GA grant is open; and

(B) Cooperating with the SSI Liaison Program in applying for SSI or appealing any SSI denial(s) and attending all scheduled appointments designated by the SSI Liaison Program staff.

(b) Sign an interim assistance agreement authorizing SDSD to recover all GA cash benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or initial post eligibility payment.

(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 Division can recover only a prorated amount of the interim GA cash benefit.

(C) If the Division can not stop delivery of a GA check issued after the SSI payment is made, the GA payment will be included in the interim assistance to be reimbursed to the Division.

(c) Appeal a denial of SSI eligibility until all possible administrative appeals are exhausted.

(2) Failure to pursue SSI or cooperate with the SSI Liaison Program Staff in obtaining SSI benefits, without good cause, will result in:

(a) Suspension of GA benefits for:

(A) One month for the first failure to cooperate.

(B) Two months for the second failure to cooperate.

(b) Closure of benefits for the third or subsequent failure to cooperate.

(3) Good cause for not pursuing SSI or not cooperating with the SSI Liaison Program Staff may be established for the following reasons:

(a) A verified physical or mental impairment or illness that impedes the person's ability to pursue SSI.

(b) Other verified adverse circumstances which impair the client's ability to comply.

(c) The client is ineligible for SSI/SSDI because of their alien status.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.710

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 5-1993, f. & cert. ef. 4-1-93; 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 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-125-0660

Cooperation with Medical Treatment

A client who the Division has determined to meet the GA Impairment Criteria must engage in any medical treatment the

treating physician deems appropriate. The treatment must be medically advisable, at no cost to the client and be reasonably calculated to restore the client to a state of health that would enable the client to become gainfully employed.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96

461-125-0690

Penalty for not Cooperating with Medical Treatment

- (1) GA and GAM clients fail to cooperate with medical treatment if they do any of the following:
 - (a) Fail to begin treatment;
 - (b) Voluntarily leave treatment before completion, except when they change treatment programs with the approval of the branch and the treatment facility;
 - (c) Are terminated from a treatment program because they fail to cooperate.
- (2) Clients who do not cooperate with medical treatment:
 - (a) Are ineligible for:
 - (A) One month for the first failure to cooperate;
 - (B) Two months for the second failure to cooperate.
 - (b) Have their benefits closed for the third or subsequent failure to cooperate.
- (3) SSI eligibles who have been identified by SSA as Drug Addicts or Alcoholics (DAA) and are terminated for SSI cash benefits due to noncooperation with DAA treatment are not eligible for GA cash benefits, unless they are disabled independent of DAA and have reapplied for SSI.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.710

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96

461-125-0810

Using Administrative Medical Examinations

- (1) When the Division is responsible for making a decision of ADC incapacity, GA unemployability, OSIP disability or OSIP blindness, allow the client to select a qualified medical provider to complete the medical evaluation per OAR 461-125-0830. Authorize payment for an administrative medical examination as needed.
- (2) A decision to deny or end benefits may be reconsidered when additional medical documentation relevant to the decision is received by the Division within 30 days of the original effective date of denial or termination.

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

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

461-125-0830

Medical Documentation; Disability, Incapacity, Unemployability

- (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 evidence from physical examination, psychiatric evaluation, x-rays, or laboratory procedures. This evidence must include objective findings; i.e., specific data supporting diagnosis of a condition that causes unemployability or incapacity, either on a medical or psychiatric basis.
- (2) To determine eligibility, the Division will accept evaluations from the following sources:
 - (a) Medical evaluations only from medical and osteopathic doctors;
 - (b) Visual evaluations from optometrists;
 - (c) Mental evaluations from licensed clinical psychologists.
- (3) For casework planning (e.g., SDSD service planning, referrals to other agencies, or JOBS planning) and supplemental information, the Division will accept evaluations from the following Medicaid-enrolled providers:
 - (a) Licensed Social Worker evaluations;
 - (b) Physical capacity evaluations from licensed Physical Therapists and licensed Occupational Therapists.
- (4) The client must provide or cooperate in obtaining sufficient medical documentation for the Division to determine eligibility.
- (5) A client whose mental condition was initially documented by a physician who is not a psychiatrist or licensed clinical psychologist must submit documentation from a psychiatrist or licensed clinical psychologist to establish the condition beyond an initial 60-day period (up to 90 days if approved by MRT).

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

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

461-125-0850

Medical Review Team (MRT)

- (1) The MRTs are comprised of staff assigned by the Division.
- (2) For ADC-BAS, ADCM-BAS, GA and GAM, the MRT provides medical expertise in comparing the client's medical condition with the medical eligibility requirements. The MRT determines whether a person meets the incapacity or unemployability criteria.
- (3) MRT decisions are based on all the following:
 - (a) The nature of the impairment;
 - (b) The medical documentation and, when appropriate, the social summary;
 - (c) The specific medical eligibility requirements of the applicable program.
- (4) MRTs do all the following:
 - (a) Determine incapacity for ADC-BAS and ADCM-BAS;
 - (b) Determine exemption from JOBS program participation;
 - (c) Determine unemployability for GA clients, at branch discretion;
 - (d) Authorize medical/psychiatric examinations necessary to obtain supplemental medical documentation;
 - (e) Use the good cause criteria in OAR 461-125-0910 to determine if the client has good cause for refusing to cooperate with rehabilitation or treatment.

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92

461-125-0870

Establishing a Medical Review Date

- (1) No medical review will be done when it is documented that the client has a terminal illness.
- (2) The MRT will complete a medical review whenever the MRT determines it is necessary.

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95

461-125-0890

Requirement to Cooperate with Referrals to VRD

- (1) To be eligible for benefits, ADC-BAS, ADCM-BAS and REF clients who are exempt from participating in the employment program due to a medical condition, and GA clients must cooperate with referrals to VRD unless the client

meets one of the following:

- (a) Is terminally ill;
- (b) Has a short-term medical condition not expected to last over 90 days;
- (c) Has good cause for not cooperating;
- (d) Has not been released by their doctor as being in stable condition.

(2) To demonstrate cooperation with VRD, clients must do all the following:

- (a) Keep appointments;
- (b) Cooperate in developing a reasonable restoration plan;
- (c) Follow through with the requirements of the plan.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.620, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 183, 416 & 418

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 19-1993, f. & cert. ef. 10-1-93

461-125-0910

Good Cause for Non-cooperation; VRD Referral

For ADC-BAS, ADCM-BAS, GA and GAM-BAS, good cause for non-cooperation with VRD exists when any of the following is true:

- (1) The restoration/treatment plan would endanger the client's life or cause further mental or physical problems.
- (2) The client experiences severe emotional stress because of a fear of undergoing the recommended treatment in the plan.
- (3) The restoration/treatment plan requires that clients receive medical treatment that is against their religious beliefs. The religious beliefs must be verified with the religious group with which clients are associated.
- (4) The treatment is not medically advisable or generally acceptable.
- (5) The client misses a scheduled VRD appointment due to circumstances beyond their control, such as:
 - (a) An illness or impairment. The branch may require verification;
 - (b) A verified court appearance;
 - (c) A verified break down in transportation, with no readily available alternative;
 - (d) Verified adverse circumstances that affected the client's ability to attend the appointment, as determined by the Division.

Stat. Auth.: ORS 411.060, 411.070, 411.595, 412.520, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93

461-125-0930

Penalty for Failure to Cooperate; VRD

The penalties for failure to cooperate with a VRD referral or medical treatment are as follows:

- (1) For ADC-BAS and ADCM-BAS, if incapacity is the only basis of deprivation, the benefit group is ineligible. If incapacity is not the only basis of deprivation, the penalty is that the client who fails to cooperate is ineligible.
- (2) For GA, the client is ineligible for:
 - (a) One month for the first failure to cooperate;
 - (b) Two months for the second failure to cooperate;
 - (c) Three months for the third or subsequent failure to cooperate.

Stat. Auth.: ORS 411.060, 411.070, 411.595, 411.520, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-90

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 130

EMPLOYMENT REQUIREMENTS

461-130-0010

Requirement to Prepare For and Pursue Employment; General Information

- (1) To be eligible for ADC-BAS, FS, REF or REFM-BAS:
 - (a) All clients must cooperate in determining employment status. This includes providing information and documentation to support exempt status and good cause statements.
 - (b) Mandatory clients must participate in an employment program unless:
 - (A) They have good cause per OAR 461-130-0240.
 - (B) For ADC-BAS, ADCM-BAS, REF and REFM-BAS, they are not selected for participation.
 - (C) For FS, they are excluded from OFSET per OAR 461-130-080 and not selected for JOBS Plus participation.
 - (c) FS clients must cooperate in registration requirements per OAR 461-130-0030.
 - (d) Refugees within their first 12 months in the U.S. who live in the New Arrival Employment Service (NAES) project area are subject only to the NAES employment program OARs.
- (2) Work-eligible aliens in the ADC-BAS filing group are required to prepare for or pursue employment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

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 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-130-0030

FS Registration for Employment

- (1) To be eligible for FS, the following filing group members must register for OFSET or cooperate with work registration requirements, unless they are exempt per OAR 461-130-0070:
 - (a) Clients age 18 through 59 (except for ineligible aliens); and
 - (b) Clients age 16 and 17 if they are the primary person.
- (2) FS clients who must register for OFSET or cooperate with work program requirements are called mandatory.
- (3) Mandatory clients who fail to cooperate with registration are subject to disqualification per OAR 461-130-0265.

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 20-1990, f. 8-17-90, cert. ef. 9-1-90; 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 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 5-1997, f. 4-30-97, cert. ef. 5-1-97

461-130-0050

Employment Program Status Determination

- (1) After initial registration, the branch office determines which clients are exempt from or mandatory for participation in the AFS employment programs.
- (2) The branch office re-evaluates the client's employment status at each redetermination.
- (3) The branch office explains the participant's employment status and rights and responsibilities in the appraisal.
- (4) For ADC-BAS, ADCM-BAS, REF and REFM-BAS, mandatory clients must sign an AFS 835.
- (5) Initial appraisal is mandatory for all New JOBS participants before developing an Employment Plan. Other New JOBS components may be completed in any order without prerequisites.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-130-0060

Determining PWE

- (1) The principal wage earner (PWE) for ADC-BAS and ADCM-BAS (the ADC-PWE) is the person who was determined to be the PWE when deprivation based on underemployment or unemployment was established per OAR 461-125-0150.
- (2) Identify the FS-PWE to determine who in the filing group is disqualified when a group member fails to meet work requirements. Identify the FS-PWE for filing groups that include no minor children when:

- (a) A member quits their job or fails to cooperate with OFSET, JOBS or UC work requirements;
- (b) A person who is serving an FS disqualification period enters an ongoing FS filing group.
- (3) The FS-PWE is the following household member who earned the most money in the two-month period before any of the actions in section (2) of this rule occurred:
 - (a) An adult filing group member, age 18 or over;
 - (b) A filing group member age 16 to 18, if they are the primary person;
 - (c) Anyone who would be in the filing group if they were not an ineligible student;
 - (d) If no member of the household earned enough money to be the PWE, the PWE is the person who was the primary person at the time any of the actions in section (2) of this rule occurred.
- (4) The FS-PWE cannot be a child, regardless of age, who is living with a parent or a person fulfilling the role of parent (e.g., foster parent) if the parent is employed, work-registered for FS, or receiving ADC-BAS or UC benefits.
- (5) To determine the PWE for REF or REFM-BAS(ADC-PWE), apply the criteria used in determining the PWE for ADC-BAS and ADCM-BAS. For REF and REFM-BAS, individuals without dependent children can be the PWE.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.816

Stats. Implemented: ORS 411.060, 7 CFR 273.1(d)

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 19-1994, f. & cert. ef. 9-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; Suspended by AFS 32-1996(Temp), f. & cert. ef. 9-23-96

461-130-0070

Exempt From Employment Program Requirements

- (1) ADC-BAS and REF clients are exempt from disqualification for noncooperation with JOBS if they meet any of the following:
 - (a) Pregnant females who are:
 - (A) In their ninth month of pregnancy (age 20 and above only); or
 - (B) Experiencing medical complications due to pregnancy that prevent participation in employment or self-sufficiency programs. Documentation from a Division-approved medical authority is required.
 - (b) Females during the first 90 days after giving birth to a child.
 - (c) VISTA volunteers.
 - (d) Persons who must do the following to participate in AFS employment programs:
 - (A) Travel an unreasonable distance from their home; or
 - (B) Remain away from their home overnight.
 - (e) Clients age 60 or older.

(f) Ineligible non-citizens who are not work-authorized in the U.S.

(g) SSI recipients.

(h) Non-needy caretaker relatives.

(2) FS clients are exempt from AFS employment program participation if any of the following apply:

(a) The person has countable income from employment or self-employment, and the income is equal to 30 hours a week at minimum wage or higher.

(A) The standard is the federal minimum wage.

(B) Migrants or seasonal farm workers meet this criteria if they are under contract or similar agreement with an employer or crew chief for work equal to 30 hours a week at federal minimum wage, and will begin work within 30 days.

(b) The person has a physical or mental condition that prevents performing any work. For ABAWDs, accept a statement from any medical practitioner.

(c) The person is responsible for the care of a child under age 6.

(d) The person is required to be in the home to care for an incapacitated or disabled household member. The client must provide information and cooperate with the branch to do all the following:

(A) Verify the incapacity/disability.

(B) Determine that care is not available from another household member.

(C) Have medical documentation that the person is required in the home.

(e) The following people are exempt because of school attendance:

(A) A student enrolled at least half-time (as defined by the school) in any high school or equivalent program recognized by the school district.

(B) An eligible student enrolled at least half-time in any school, training program, or institution of higher education. Half-time status is determined by the school district. Students remain exempt from work registration during normal periods of class attendance, vacation and recess. The person no longer qualifies for the student exemption when there is a break in enrollment due to graduation, suspension or expulsion, the student drops out of school or the student does not intend to register for the next normal school term (excluding summer term).

(f) The following people are also exempt from OFSET and work registration:

(A) Clients receiving ADC-BAS or REF benefits who are mandatory for JOBS.

(B) People who receive UC benefits or have completed the application for UC benefits and are waiting for an initial decision on their claim, if they were required to register for work at the OSES office as part of the UC process.

(C) Participants in a drug or alcohol treatment and rehabilitation program.

(D) Pregnant females in their second and third trimester.

(E) People who live in areas where OFSET is available, if they have one of the following:

(i) Lack of adequate dependent care.

- (ii) Lack of available transportation.
 - (iii) Barriers to employment, such as being homeless, short-term physical/mental limitations, serious family problems, etc.
- (3) In addition, the following clients are exempt from ADC-PLS and FS-PLS:
- (a) People receiving SSI.
 - (b) Teenage parents who remain in high school if they are making progress toward receiving a diploma.

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 20-1990, f. 8-17-90, cert. ef. 9-1-90; 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 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 22-1991, f. 10-31-91, cert. ef. 11-1-91; 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 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; 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 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 19-1997, f. & cert. ef. 10-1-97

461-130-0075

Clients Excluded from JOBS Participation

The following people are excluded from JOBS participation:

- (1) Indians (Native Americans) who are participants in the Grand Ronde JOBS Program.
- (2) ADC-BAS and REF clients who are assigned to the MDRC JOBS evaluation control group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 1-1993, f. & cert. ef. 2-1-93; 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 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-130-0090

Strikers

- (1) A striker is anyone involved in a strike, a concerted work stoppage by employees, or any interruption of operations by employees. This includes a work stoppage caused by expiration of a collective bargaining agreement.
- (2) Treat filing groups containing a striker as follows:
 - (a) For ADC-BAS, ADCM-BAS, ADC-EA, ADCM-EA, REF and REFM-BAS, a filing group is ineligible any month during which a caretaker relative participates in a strike. If a person other than the caretaker relative is participating in a strike, only that person is ineligible;
 - (b) For ERDC, filing groups are ineligible for the days the caretaker is on strike or lock-out, unless:

- (A) They have earned income from other employment on those days; or
- (B) They receive ERDC-SBG. Approve child care for class time, study time and for other employment.
- (c) For FS, filing groups cannot receive increased benefits because of a striking member's decrease in income:
 - (A) If an applicant filing group contains a striker, they are eligible only if:
 - (i) They were eligible for benefits using each striking member's full month's income prior to the strike; and
 - (ii) They are otherwise eligible at the time of application.
 - (B) If a recipient filing group contains a striker, determine benefits using each striking member's full month's income prior to the strike as long as:
 - (i) The member remains on strike; and
 - (ii) The striking member's current income is less than the income they had prior to the strike.
- (C) Strikers who are otherwise eligible are subject to work registration requirements.
- (d) For OHP, filing groups including a striker are eligible as long as they meet all other eligibility requirements.
- (3) Do not consider the following people to be participating in a strike:
 - (a) Employees whose work place is closed by the employer to resist the demands of employees (lock-out);
 - (b) Employees unable to work because of striking employees (e.g., striking lumber mills, consequently truck drivers do not have lumber to deliver);
 - (c) Employees who terminate employment with the company involved in a strike and accept another full time job. A full time job is a job involving 30 hours or more per week or providing weekly earnings at least equal to the state minimum wage (federal minimum wage for FS) multiplied by 30 hours;
 - (d) Additionally for FS:
 - (A) A striker who loses their job because the employer hires permanent replacements. The striker must be able to return to the job they left when the strike began;
 - (B) Clients not required to register for employment per OAR 461-130-0030.

Stat. Auth.: ORS ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640 & 411.186

Stats. Implemented: ORS 411.060, 7 CFR 273.1(g)

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 29-1994, f. 12-29-94, cert. ef. 1-1-95

461-130-0150

Volunteer to Participate in Employment Programs

- (1) For ADC-BAS, ADCM-BAS, FS, REF and REFM-BAS, clients may volunteer to participate in an AFS employment program as follows:
 - (a) Exempt or mandatory clients may volunteer to participate.

- (b) Clients excluded from JOBS per OAR 461-130-0075, from JOBS Plus per OAR 461-190-0400 or from OFFSET per OAR 461-130-0080 cannot volunteer to participate.
 - (c) FS clients who receive ADC-BAS or REF benefits may volunteer for OFFSET if they are not participating in JOBS.
- (2) Volunteers may stop participating without penalty if they are exempt.
- (3) When a volunteer's status changes from exempt to mandatory, AFS may not impose penalties for noncooperation for incidents that occurred while the participant was exempt.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

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 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 1-19; 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

461-130-0160

Employment Program Status

The AFS branch office does all the following:

- (1) Explains the client's employment status, and rights and responsibilities, in an orientation or an assessment.
- (2) Requires all mandatory ADC-BAS, ADCM-BAS, REF and REFM-BAS clients to review and sign the JOBS rights and responsibilities form.
- (3) Notifies clients when their status changes from exempt to mandatory before requiring them to participate in an employment program. For FS, notify clients within ten calendar days after the change is reported to the branch or within ten calendar days after the change in status occurs, but no later than the next redetermination.
- (4) When a participant's status changes from mandatory to exempt, notifies them within 30 calendar days from the date the change in status occurs, or is reported to the branch, whichever is later. Offer the client the opportunity to continue participating as a volunteer.

Stat. Auth.: ORS ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.060

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 13-1994, f. & cert. ef. 7-1-94

461-130-0200

Cooperation With Employment Program Requirements

- (1) ADC-BAS, ADCM-BAS, FS, REF and REFM-BAS mandatory clients must do all the following:
 - (a) Complete the assessment process and provide enough information so that AFS can determine whether to select them for employment program participation.

- (b) Accept a bona fide offer of employment, whether it is temporary, permanent, full-time, part-time, or seasonal.
 - (c) Maintain employment.
 - (d) Additionally for ADC-BAS, ADCM-BAS, REF and REFM-BAS, cooperate with case management assignments as specified on their case plan.
- (2) All filing group members selected for participation in an employment program must do all the following:
- (a) Schedule and keep employment-related appointments and interviews.
 - (b) Notify AFS 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 the missed appointment, interview, class or activity.
 - (c) Attend and complete scheduled activities as specified in an AFS-designated form.
 - (d) Follow through on job referrals.
 - (e) Submit valid employment applications.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1990, f. & cert. ef. 8-15-90; 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 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; 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 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

461-130-0210

OFSET Cooperation Period

- (1) The OFSET cooperation period is the time period for which a mandatory FS client can be required to participate in OFSET.
- (2) For applicants assigned to independent job search, the OFSET cooperation period is the following:
 - (a) Eight consecutive weeks starting with the date the client signs the AFS-designated form. Do not delay determination of eligibility or issuance of benefits while the applicant is completing the 8-week cooperation period.
 - (b) An additional 8-week period can be required immediately following the end of the initial 8-week period.
- (3) For recipients assigned to independent job search, the OFSET cooperation period is for 8 consecutive weeks once every 12 consecutive months.
- (4) For both applicants and recipients, if the mandatory participant is enrolled in the Job Search Training and Support component or Other Employment-Related Activities component, the participant can be required to complete the training even if it goes beyond the 8-week cooperation period.
- (5) For both applicants and recipients, if the mandatory participant is assigned to continuous job search, the cooperation period is for the duration of the redetermination.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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 26-1990, f. & cert. ef. 11-29-90; AFS 4-1997(Temp), f. 4-30-97, cert. ef. 5-1-97; AFS 9-1997, f. & cert. ef. 7-1-97

461-130-0220

Noncooperation With Employment Program Requirements

(1) For ADC-BAS, ADCM-BAS, FS, REF and REFM-BAS:

(a) Disqualify mandatory filing group members who fail to cooperate with employment program requirements, if they do not have good cause for noncooperation. Evaluate for good cause (per OAR 461-130-0240) before imposing the disqualification. Apply disqualifications as follows:

(A) For ADC-BAS, ADCM-BAS, REF and REFM-BAS, apply JOBS disqualifications per OAR 461-130-0260.

(B) For FS, apply disqualifications per OAR 461-130-0265.

(b) For ADC and REF filing group members who are exempt from disqualification per OAR 461-130-0070, the penalty for noncooperation is loss of the cooperation incentive.

(2) Noncooperation with an employment program exists when a client fails to meet any of the requirements of OAR 461-130-0200 or any of the following requirements, and does not have good cause per OAR 461-130-0240.

(a) The client fails to meet the requirement to keep appointments and interviews when they refuse to keep or miss a scheduled job interview or an employment-related appointment.

(b) The client refuses or fails to attend all scheduled classes and activities, or refuses or fails to complete all assignments as specified in the AFS or contractor-designated form.

(c) The client fails to spend a JOBS support service payment on the goods or services the payment was intended to cover, or fails to return an unused payment to AFS or the JOBS contractor.

(d) The JOBS participant fails to inform their child care provider that they were not participating in authorized employment program activities and as a consequence AFS is billed in error.

(e) For ADC-BAS and REF, the client fails to meet the requirement to maintain employment when they do any of the following:

(A) Cause their own dismissal per OAR 461-130-0222.

(B) Voluntarily reduce their earnings or hours of employment.

(C) Do not accept an increase in hours worked that would result in increased earnings.

(D) Quit a job.

(f) Additionally for ADC-BAS, ADCM-BAS, REF and REFM-BAS, noncooperation exists when:

(A) The client exhibits behavior (within the most recent 6-month period) demonstrating failure to cooperate with employment program requirements; or

(B) A mandatory client who is referred by JOBS to a mental health or substance abuse program for diagnosis,

counseling or treatment, refuses or fails to comply or cooperate with the program.

(3) Clients who did not sign the JOBS rights and responsibilities form while mandatory cannot be disqualified per section (2)(e) of this OAR.

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 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 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; 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 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 19-1997, f. & cert. ef. 10-1-97

461-130-0222

Discharge for Misconduct

Misconduct is a knowing, deliberate defiance of reasonable employer expectations. When determining whether an individual's misconduct cause their dismissal from employment, AFS will consider all the following:

- (1)The employee's misconduct must demonstrate any of the following:
 - (a) A willful violation;
 - (b) A willful disregard of the employer's interests;
 - (c) Recurring negligence;
 - (d) Wrongful intent.
- (2) The employer must have clearly communicated their expectations to the employees to establish:
 - (a) The reasonableness of the employer's action; and
 - (b) The employee's knowledge of the consequence of the conduct.
- (3) Gross misconduct (e.g., drunkenness or insubordination) does not have to be preceded by a warning from the employer.
- (4) A single instance of poor judgement, carelessness, tardiness, unsatisfactory conduct beyond the client's control or inefficiency is not usually misconduct. Persistent instances, or an act that results in serious consequences to the employer, can be considered reasonable grounds for dismissing an employee for misconduct.

Stat. Auth.: ORS Ch. 411 & 414

Stats. Implemented: ORS 411.060

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90

461-130-0230

FS Disqualification Due to JOBS or UC Employment Program Disqualification

- (1) The following people are disqualified from receiving FS benefits unless they meet the criteria in section (2) of this OAR:
 - (a) FS applicants who are serving a JOBS or UC employment program disqualification for failure to cooperate at the time they apply for FS benefits.
 - (b) FS recipients who begin serving a JOBS or UC employment program disqualification for failure to cooperate during one of the following time periods:
 - (A) For new recipients, during the eight continuous weeks starting with the FS filing date; or
 - (B) For ongoing recipients, during the eight continuous weeks starting with the first of the month in which their last FS redetermination was due.
- (2) Do not apply the FS disqualification if any of the following is true:
 - (a) The JOBS or UC employment program disqualification occurred at some time other than the time periods discussed in section (1) of this OAR.
 - (b) The disqualified person is exempt from participating in an FS employment program for reasons identified in sections (1) through (5) of OAR 461-130-0070 or excluded per section (2) of OAR 461-130-0080.
 - (c) In a branch served by OFSET, the person has a JOBS or UC programs disqualification and agrees to make 24 employer contacts before their 8-week period is up. If they fail to make 24 employer contacts by the end of their 8-week period, disqualify them for FS.
- (3) Apply the FS disqualification per OAR 461-130-0265.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 4-1997(Temp), f. 4-30-97, cert. ef. 5-1-97; AFS 9-1997, f. & cert. ef. 7-1-97

461-130-0240

Good Cause for Noncooperation with Employment Programs

For ADC-BAS, ADCM-BAS, FS, REF and REFM-BAS, evaluate the client's claims of good cause for noncooperation with the Division's employment program requirements. It is the client's responsibility to provide evidence to establish good cause for noncooperation and to work with Division staff to try to resolve problems that interfere with cooperation. A mandatory client may have good cause for noncooperation if any of the following is true:

- (1) The task, performed on a regular basis, has an adverse effect on the client's physical or mental health. Documentation from a Division-approved medical authority (per OAR 461-125-0830) is required.
- (2) The work site violates established health and safety standards.
- (3) The person has no means of transportation and would have to walk an unreasonable distance to employment, self-sufficiency activities or a pickup point. The person must show that they have made a good-faith effort to secure the needed transportation. Additionally for FS, the commute is more than 2 hours roundtrip.

(4) The wage is:

(a) Not at least equal to applicable minimum wage laws; or

(b) If these laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.

(5) The work schedule does not conform to hours customary to the occupation or hours worked per week are more than those customary to the occupation.

(6) Adequate child care (or day care for an incapacitated person in the household) is not available or there is a breakdown in child care arrangements for a child in the household. The client must attempt to get child care from another provider.

(7) The position offered is vacant due to a strike, lockout or other labor dispute.

(8) The employment requires a client to join a union and the client has religious objections to unions.

(9) The client belongs to a union and the employment goes against the conditions of the client's membership in that union. Good cause does not exist if the employment is not governed by the OARs of the union to which the client belongs.

(10) The Division determines that the job offered will not meet the goals of the Division-approved training plan for the client.

(a) For FS, good cause may exist if a job offered in the first 30 days of registration is not in the client's field of experience.

(b) REF and REFM-BAS clients do not have to accept offers of employment if doing so interrupts OJT or vocational training that is part of an approved Employment Development Plan (EDP), or enrollment in a full-time professional recertification program. The professional recertification must be approved by AFS and must not exceed one year's duration or the end of the client's REF eligibility period, including any time clients were enrolled in the program before applying for REF or REFM.

(11) The job referral or employer is discriminatory in terms of age, sex, race, religious or political belief, marital status, handicap or ethnic origin. Age, sex and handicap requirements are allowable when there are valid or legal reasons for the requirements.

(12) The client misses scheduled job interviews, employment-related appointments or scheduled employment-program activities, mental health and substance abuse diagnostic or treatment appointments and activities, or is absent from training or work because of circumstances beyond their control, such as:

(a) A mental or physical illness, impairment, or condition preventing compliance (including drug and alcohol dependence). The branch may require verification.

(b) A verified court appearance or temporary incarceration (30 days or less).

(c) A verified breakdown in transportation with no readily accessible alternative.

(d) Inclement weather that prevented the client and others similarly situated from traveling.

(e) Family problems, including medical, legal or school problems with other family members.

(f) Verified adverse circumstances that affected the client's ability to attend, as determined by the Division.

(g) A legitimate breakdown in communication, such as Division or contractor failure to inform the client of an appointment.

(13) The client is enrolled and actively participating in a community recognized Dislocated Worker training program and was not a JOBS participant at the time they enrolled in the training program. AFS may require verification of such enrollment and active participation.

(14) For ADC-BAS, ADCM-BAS, REF and REFM-BAS, a client who:

(a) Is working full-time may quit a job without penalty under any of the following conditions:

(A) They meet another exemption.

(B) They quit to accept another full-time job with a wage at least equal to the quit job.

(C) They have not signed the JOBS rights and responsibilities form.

(b) Is in her 7th or 8th month of pregnancy and employment requires her to work more than 10 hours per week or the EDP requires her to participate more than 10 hours per week.

(c) Demonstrates a good faith effort to attend and complete activities approved on the EDP, but is unable to do so. Examples of good faith efforts include attendance at classes, and demonstrated efforts to complete all assignments and activities.

(d) Has no activity available to participate in.

(15) Additionally for ADC-BAS, ADCM-BAS, REF and REFM-BAS (except JOBS Plus participants), good cause for not accepting employment exists if AFS determines the person's countable income when employed, minus reasonable work expenses from the expected monthly salary, will be less than their current countable income. When calculating current countable income, include ADC-BAS cash benefits. Reasonable expenses are those the client must pay and include:

(a) Mandatory payroll deductions (federal and state taxes, FICA, Workers' Compensation and union dues).

(b) Work-related expenses for:

(A) Transportation to work and to child care providers (e.g., a bus pass or mileage at 14 cents per mile).

(B) Unreimbursed child care expenses.

(c) Other unreimbursed expenses that the client proves are necessary to accept the job. These include occupational license(s), tools, clothing and moving expenses if the client must move to another area.

(16) Additionally for FS:

(a) The hours or nature of the job interferes with the client's religious observances, convictions or beliefs.

(b) The primary person accepts employment or schooling (at least half time) that requires them to quit a job.

(c) A client accepts employment or schooling in another county, requiring the benefit group to move and the primary person to quit a job.

(d) A client under age 60 resigns, and the employer recognized this 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 does not materialize or results in less work hours or lower wage than the client's

previous job, if it is beyond the control of the client.

(g) Work demands or conditions, such as not being paid for work or not being paid on schedule, make employment unreasonable.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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 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 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 23-1994, f. 9-29-94, cert. ef. 10-1-94; 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 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

461-130-0260

Disqualifications for Failure to Cooperate with JOBS

(1) All members of the ADC-BAS and REF filing group are subject to JOBS disqualification unless they are exempt per OAR 461-130-0070.

(2) JOBS disqualifications are imposed within the following conditions:

(a) The disqualifications are progressive. There are two months of disqualification to be served at each of the first two levels.

(A) The penalty for the first two months of disqualification is a \$50 decrease in the ADC payment standard for the need group size. This is the first level.

(B) The penalty for the third and fourth months of disqualification is removal of the noncooperating client from the need group. This is the second level.

(i) There are two countable months of disqualification for clients who were disqualified before being covered by Oregon Option policy.

(ii) Clients who are serving a disqualification on the date they become covered by Oregon Option policy because they are pursuing an unapproved training or education plan remain out of the need group through June 30, 1998, as long as they are making satisfactory progress with their training plan. If they are subsequently disqualified, the disqualification will start at the first month of the second level.

(C) The second level (third and fourth months) of disqualification is continuation of the \$50 reduction in the payment standard for any client who is not in the ADC-BAS need group (i.e., work-authorized ineligible non-citizens, clients disqualified for noncooperation with SED and clients on an IPV penalty).

(D) The penalty for the fifth and all successive months of disqualification is ADC-BAS ineligibility for the entire filing group. This is the third level.

(b) Count as a month of disqualification:

(A) Any month in which the client is disqualified for even one day; and

(B) The month in which a disqualification would have become effective, if the client had not successfully demonstrated cooperation before the effective date per OAR 461-130-0275.

(c) When ADC-BAS and REF clients fail to cooperate with JOBS requirements without good cause, impose penalties according to which level of disqualification is required per subsections (a) and (b) above.

(d) When a disqualified client does not act to end the disqualification, it progresses to the next level. The client is not entitled to a hearing on progression of the disqualification penalty.

(e) When ADC-BAS applicants fail to cooperate with JOBS requirements and:

(A) They have less than three countable months of disqualification since July 1, 1996, start them at the first month of the second-level disqualification.

(B) They have three countable months of disqualification since July 1, 1996, start them at the second month of the second-level disqualification.

(C) They have four or more countable months of disqualification since July 1, 1996, deny ADC eligibility.

(3) The following provisions apply to all clients:

(a) When a client is given a JOBS disqualification notice and they become exempt from JOBS or ineligible for ADC-BAS, not resulting from the disqualification, prior to the disqualification effective date, do not impose the JOBS disqualification unless the disqualification has been delayed pending the final hearing order per OAR 461-180-0105. When the disqualification causes prospective ADC-BAS ineligibility, consider the disqualification as being imposed on the disqualification effective date even though the ADC-BAS benefits have closed.

(b) Work Supplementation clients are considered ADC-BAS recipients, even though they may not be receiving cash benefits. Branches may determine whether to disqualify a Work Supplementation client who voluntarily reduces earned income or the number of working hours. If a disqualification is applied, the Work Supplementation contract is voided.

(c) OJT clients are not considered ADC-BAS recipients when their income puts them over standards. Therefore, they cannot be disqualified for JOBS noncooperation.

(d) When the person who caused a disqualification leaves the filing group, restore that filing group's benefits. If the person enters another household, apply the disqualification in that household after giving notice.

(e) For FS, when the ADC-BAS payment is reduced or ends due to this penalty, count the amount the ADC-BAS payment would be if there were no JOBS disqualification, for the duration of the disqualification.

Stat. Auth.: ORS 411.060, &

Stats. Implemented: ORS 411.060 & 418.040

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 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 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 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 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, 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 19-1997, f. & cert. ef. 10-1-97

461-130-0265

FS Disqualifications for Failure to Cooperate with Employment Requirements

(1) Use this OAR to apply FS disqualifications for failure to cooperate with any of the following employment requirements:

- (a) Registering for employment per OAR 461-130-0030.
 - (b) Cooperating with employment program requirements per OARs 461-130-0200 and 461-130-0230.
 - (c) Maintaining employment per OAR 461-130-0280.
- (2) The disqualifications are progressive. Apply the disqualification for mandatory clients who fail to cooperate with FS employment requirements as follows:
- (a) For the first failure to cooperate, remove the client from the need group for a minimum of one calendar month and until they cooperate.
 - (b) For the second failure to cooperate, remove the client from the need group for a minimum of three calendar months and until they cooperate.
 - (c) For the third and subsequent failures to cooperate, remove the client from the need group for a minimum of six calendar months and until they cooperate.
- (3) End the disqualification the 1st of the month following the month in which the Division becomes aware that the client's status has changed to exempt, even if it is during the minimum disqualification period.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; 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 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

461-130-0267

Disqualification for Noncooperation With NCP-PLS, UI-PLS

NCP-PLS and UI-PLS clients who fail to cooperate with JOBS Plus are removed from the program and are not eligible for another JOBS Plus placement for 12 months.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96

461-130-0270

Ending Employment Program Disqualification

For ADC-BAS, FS and REF, end the disqualification for noncooperation with employment program requirements as follows:

- (1) The disqualification was applied in error. Do not count that disqualification.
- (2) The person who caused the disqualification is no longer a member of the filing group. The disqualification follows the person.

(3) For ADC-BAS and REF, the disqualified person:

(a) Becomes exempt or excluded. The disqualification ends on the first of the month in which the change occurs or AFS becomes aware of the change, whichever occurs later; or

(b) Demonstrates cooperation per OAR 461-130-0275.

(4) For FS clients, refer to OAR 461-130-0265.

(5) Do not disqualify an applicant who is to be disqualified but withdraws the application before benefits are approved.

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 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 16-1992(Temp), f. & cert. ef. 7-1-92; AFS 34-1992, f. & cert. ef. 12-1-92; 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 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 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

461-130-0275

Demonstrating Cooperation With JOBS

ADC and REF clients who are disqualified for noncooperation with JOBS requirements must demonstrate cooperation before the disqualification can be ended.

(1) When a client requests to demonstrate cooperation before the effective date of the disqualification, AFS may establish a cooperation period that extends to the effective date of the disqualification. If the client demonstrates cooperation during this period, take the following actions:

(a) Do not impose the disqualification penalty; and

(b) Count the month in which the disqualification penalty was to be imposed as a disqualification month per OAR 461-130-0260.

(2) On or after the disqualification effective date, the client must be able to end their disqualification on the day they request in-person to demonstrate cooperation, or by the end of the following day. If no appropriate activity is available, a client statement of intent to cooperate with JOBS requirements will serve as the demonstration of cooperation.

(3) After the client completes their demonstration of cooperation, restore cash benefits as follows:

(a) When the client requests to demonstrate cooperation in the first month of a first-level disqualification, restore cash benefits back to the first of the month.

(b) For the second through fifth disqualification months, restore cash benefits to the date the client requested to demonstrate cooperation.

(c) For the sixth and subsequent months of disqualification, cash benefits are ended. The client is treated as an applicant and must successfully complete Applicant Work Search to be eligible for ADC-BAS.

(4) When clients demonstrate cooperation after receiving a disqualification notice, but before the disqualification effective date, consider the disqualification as having been imposed for one month.

Stat. Auth.: ORS 411.060 & 418.040

Stats. Implemented: ORS 411.060 & 418.040

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 19-1997, f. & cert. ef. 10-1-97

461-130-0280

Voluntary Job Quit; FS

- (1) For FS, a voluntary job quit is when the client, who is required to register for work or is exempt from work registration due to employment per subsection (2)(a) of OAR 461-130-0070, quits their job or quits working under a JOBS Plus agreement (except as allowed per OAR 461-190-0445) as follows:
- (a) Voluntarily leaves the job.
 - (b) Fails to return to work without notifying their employer in a timely manner.
 - (c) Goes on strike and is dismissed because of it, if a federal, state or county employee.
 - (d) Reduces hours of work to less than 30 per week.
- (2) Changes in employment status caused by a reduction in work hours while working for the same employer, being fired from a job, terminating a self-employment enterprise or resigning from a job at the demand of the employer are not considered a voluntary quit.
- (3) Review any applicant job quits that occurred within 60 days of the date of application and those that occur while clients are receiving benefits to determine if they are disqualifying job quits.
- (4) Disqualify clients who quit their most recent job without good cause per section (1) of this OAR. To result in disqualification, the job must have averaged 20 hours or more per week or have provided average weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.
- (5) Apply the disqualification per OAR 461-130-0265.

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 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 7-1991(Temp), f. & cert. ef. 3-19-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; 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 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 135

SPECIFIC PROGRAM REQUIREMENTS

461-135-0010

Assumed Eligibility

(1) Assumed eligibles are people who meet the eligibility requirements of a program based on other benefits they receive or are deemed to receive.

(2) Except for clients disqualified for failure to pursue cost-effective, employer-sponsored health insurance per rule 461-120-0345, and clients who do not meet the citizen/alien status requirements for ADCM per rule 461-120-0125, the following people are assumed eligible for ADCM-BAS:

(a) People receiving ADC-BAS.

(b) People who are not receiving ADC-BAS cash assistance only because the benefit amount is less than \$10.

(c) People who have been determined eligible for ADC-BAS but have chosen not to receive cash benefits.

(d) People whose ADC-BAS benefits are being paid through JOBS Plus as wages.

(e) People who receive no ADC cash because of noncooperation with Pay-After-Performance, JOBS requirements or substance abuse/mental health requirements.

(f) People in the Assessment Program.

(3) Pregnant women are assumed eligible for ADCM, OHP or OSIPM if they are receiving benefits when the pregnancy ends. They are assumed eligible until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(4) Pregnant women who were receiving ADCM, GAM, OHP or OSIPM and become ineligible during the pregnancy are assumed eligible for OHP if they were under the OHP income standard any time while they were pregnant and receiving medical benefits.

(5) A child born to a mother who is receiving ADCM, OHP or OSIPM is assumed eligible for medical benefits until the

end of the month in which the child becomes one year old, as long as the child lives with the mother. The mother does not have to be currently eligible for benefits in order for the child to receive benefits.

(6) The following children are assumed eligible for ADCM-SAC:

(a) Children for whom a Title IV-E adoption assistance agreement from any state is in effect, regardless if a payment is being made.

(b) Children in a state-subsidized, adoptive placement, if an adoption assistance agreement is in effect between a public agency of the state of Oregon and the adoptive parents, indicating Title IV-E and/or ADCM or OSIPM eligibility.

(7) The following groups of people are assumed eligible for OSIPM (except for OSIPM-MN):

(a) People receiving SSI.

(b) People deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act. These are disabled people whose impairment has not changed, but become gainfully employed and have continuing need for OSIPM.

(8) People who receive Part A of Medicare and SSI are assumed eligible for QMB-BAS.

(9) Persons are assumed eligible for REFM-BAS if:

(a) They are receiving refugee cash assistance; or

(b) They are ineligible for refugee cash assistance only because of income or resources.

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 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

461-135-0070

Specific Requirements; ADC-BAS, ADCM-BAS

(1) To be eligible for ADC-BAS or ADCM-BAS, a client must be one of the following:

(a) A dependent child. However, dependent children for whom foster care payments are made for more than 30 days are not eligible while the payments are being made for them.

(b) Caretaker relatives of an eligible dependent child. However, caretaker relatives to whom foster care payments are made for more than 30 days are not eligible while the payments are being made for them.

(c) Caretaker relatives of a dependent child, when the dependent child is ineligible because of one of the following:

(A) The child is receiving SSI.

(B) The child is in foster care, but is expected to return home within 30 days. Add these children to the benefit group when they return to the home.

(C) The child is disqualified from ADC-BAS for noncooperation with JOBS per OAR 461-130-0260 or mental

health/substance abuse requirements per OAR 461-135-0085. This applies only if the case is not in a level three Oregon Option disqualification.

(d) An essential person. An essential person is a household group member not required to be in the filing group who:

(A) Provides a service necessary to the health or protection of a mentally or physically disabled benefit group member; and

(B) Including the person in the benefit group is less expensive than purchasing this service from another source.

(e) The parent(s) of an unborn, as follows:

(A) For ADC-BAS, both parents whose only child is an unborn.

(B) For ADCM-BAS, a mother whose only child is an unborn.

(C) The mother's pregnancy must have reached the calendar month before the month in which the due date falls. The due date must be determined and verified by a medical practitioner.

(D) Additionally for ADC-BAS, the father of an unborn, if there is another dependent child in the filing group, even when the mother's pregnancy has not reached the calendar month before the month in which the due date falls.

(2) Clients can be eligible for ADCM-BAS even while ineligible for ADC-BAS if they are one of the following and remain otherwise eligible for ADC:

(a) A minor parent who loses ADC-BAS eligibility because they:

(A) Refuse to live with a parent or other adult relative; or

(B) Go over income due to deeming when AFS requires her to return to live with a parent and the minor parent meets the conditions in OAR 461-135-0080(2).

(b) People assumed eligible per OAR 461-135-0010.

(c) Clients who lose ADC eligibility due to the 24-month time limit per OAR 461-135-0075.

(d) Families who would be eligible for ADC-BAS if they were allowed the following:

(A) The \$30 and 1/3 earned income deduction per OAR 461-160-0190.

(B) The dependent care deduction per OAR 461-160-0190.

(C) The \$50 unearned income support deduction per OAR 461-160-0200.

(e) Self-employed families who would be eligible for ADC-BAS if the cost of producing the self-employment income were subtracted from their gross sales or receipts per OAR 461-145-0920.

(f) Families that include an ineligible non-citizen or the father of an unborn who would be eligible for ADC-BAS if the ineligible non-citizen's or father's income were deemed per OAR 461-160-0120.

(g) Persons who would be eligible for ADC-BAS if the assets of the following household members were not counted:

(A) An unmarried parent.

(B) A child in common.

- (C) The spouse and children of a needy caretaker relative.
- (h) The spouse of a caretaker relative, but only if the spouse is the parent of a dependent child. Otherwise, only one caretaker relative can be included in the filing group.
- (3) When a parent or caretaker relative is a Native American and the family lives in Klamath county, the entire filing group is ineligible for ADC-BAS and ADCM-BAS unless one of the following applies:
 - (a) The Klamath Tribes determine the filing group ineligible for its TANF program. Ineligibility cannot be due to the group's failure to cooperate with the Klamath Tribes TANF program requirements.
 - (b) The PWE is not a Native American, the second parent is a Native American and the following apply:
 - (A) The filing group chooses not to apply for Klamath Tribes TANF services; and
 - (B) The two parents have not previously received Klamath Tribes benefits or services together.
- (4) When a parent or caretaker relative is a member of the Siletz Tribe (Confederated Tribes of Siletz Indians of Oregon) and the family lives in Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington or Yamhill county, the entire filing group is ineligible for ADC-BAS and ADCM-BAS. The only exception is when the Siletz Tribes determines the group ineligible for its TANF program, based on eligibility factors other than failure to cooperate with Siletz TANF program requirements.
- (5) When the parent or caretaker relative, per sections (3) and (4) above, fails to cooperate with an AFS referral to the Klamath or Siletz Tribal TANF program, the entire filing group is ineligible for ADC-BAS and ADCM-BAS.

Stat. Auth.: ORS 411.060, 418.040 & 418.100

Stats. Implemented: ORS 411.060, 418.040 & 418.100

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

461-135-0075

Eligibility Period; ADC-BAS

- (1) Clients are eligible for ADC-BAS for a total of 24 months in any period of 84 consecutive months after July 1, 1996.
- (2) For this OAR, a person is considered to receive ADC-BAS in any month in which they are in the financial group of a case that receives a cash payment unless any of the following applies:
 - (a) A member of the financial group is required to care for a family member suffering from a serious health condition. This is limited to three months in a two-year period.
 - (b) A member of the financial group is participating in JOBS or fails to participate, but they have good cause.
 - (c) No member of the financial group is offered an opportunity to participate in JOBS.
 - (d) The financial group does not contain a parent of a child in the group (e.g., parent on SSI, non-parent caretaker relative).
 - (e) Deprivation is based on the incapacity of both parents, or one parent is required to care for the incapacitated parent.
- (3) Any month counted per section (2) of this OAR in which the countable earned income equals or exceeds 173 times

the state minimum wage will count as two-fifths (.40) of a month.

(4) A person who has reached the 24-month limit may continue to receive ADC-BAS if any of the following is true:

- (a) The person is a dependent child in a two-parent filing group and the PWE dies.
- (b) The person is a dependent child living with a caretaker (parent or other) who was not in the filing group in the month(s) counted.
- (c) The person was a dependent child, is now a minor parent and receives ADC-BAS as a caretaker relative for their own child.
- (d) AFS determines that the person is making a diligent, good-faith effort to obtain employment. The number of families receiving ADC-BAS beyond 24 months under this condition cannot exceed 1% of the Oregon caseload at the time, or 400 families, whichever is more.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-135-0080

ADC-BAS Eligibility for Minor Parents

- (1) To be eligible for ADC-BAS, a minor parent applying for benefits for her child must live with her parent(s), legal guardian or an adult relative unless the case manager has determined that it is unsafe or impractical for the minor parent to live with these individuals.
- (2) If the minor parent returns to live with their parent(s) and the parent's income (after applying deeming per OAR 461-145-0860) is over the ADC payment standard, the minor parent is eligible for ADCM-BAS and JOBS support service payments if the minor parent:
 - (a) Attends high school or its equivalent full-time; or
 - (b) Participates in JOBS or another training program to develop employment or self-sufficiency skills.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-135-0082

ADC Eligibility for Refugees

- (1) Clients are eligible for the Refugee Case Services Program if they meet all the following:
 - (a) Have alien status per OAR 461-120-0120.
 - (b) Entered the U.S. on or after October 1, 1997.

(c) Live in Clackamas, Multnomah or Washington county.

(d) Have been in the U.S. less than eight months.

(2) Clients who are eligible for Refugee Case Services are not eligible for ADC.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97

461-135-0085

Requirement to Pursue Treatment for Substance Abuse and Mental Health

(1) For ADC-BAS and REF, a member of a need group must participate in mental health or substance abuse diagnostic, counseling and treatment programs if:

(a) It has been identified that such treatment is necessary for the person to function successfully in the workplace; and

(b) Diagnostic, counseling and treatment services are available at no cost to the benefit group. AFS will provide support service payments for child care and transportation as needed.

(2) The penalties for failure without good cause to comply diagnostic, counseling and treatment requirements are as follows:

(a) The penalties are progressive. There are two months of penalties in each of the first two levels.

(A) The penalty for the first two months of noncooperation is a \$50 decrease in the ADC payment standard for the need group size. This is the first level.

(B) The penalty for the third and fourth months of noncooperation is removal of the noncooperating client from the need group. This is the second level.

(C) The penalty for the third and fourth months of noncooperation for anyone who is not in the need group is continuation of the \$50 payment standard reduction.

(D) The penalty for the fifth and all successive months of noncooperation is ADC-BAS ineligibility for the entire filing group. This is the third level.

(b) Count as a month of noncooperation penalty:

(A) Any month in which the client is penalized for even one day; and

(B) The month in which a penalty would have become effective, if the client had not successfully demonstrated cooperation before the effective date per OAR 461-135-0089.

(c) When ADC-BAS and REF clients fail to cooperate with substance abuse/mental health requirements without good cause per OAR 461-135-0087, impose penalties according to which month of noncooperation it is per subsections (2)(a) and (b) above.

(d) When ADC-BAS and REF applicants fail to cooperate with substance abuse/mental health requirements without good cause per OAR 461-135-0087 and:

- (A) They have less than three countable months of penalties since July 1, 1996, start them at first month of the second-level penalty.
- (B) They have three countable months of penalties since July 1, 1996, start them at the second month of the second-level penalty.
- (C) They have four or more countable months of penalties since July 1, 1996, deny ADC eligibility for the entire benefit group.
- (e) In addition for FS, when the ADC-BAS payment is reduced or ends due to this penalty, count the amount the ADC-BAS payment would be if the penalty had not been imposed, for the duration of the penalty.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

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

461-135-0087

Good Cause for Noncooperation with Substance Abuse/Mental Health Requirements

- For ADC-BAS and REF, evaluate the client's claims of good cause for failure to participate in substance abuse or mental health diagnostic, counseling and treatment programs. It is the client's responsibility to provide evidence to establish good cause for noncooperation and to work with AFS staff to try to resolve problems that interfere with cooperation. A client may have good cause for noncooperation if the following is true:
- (1) Diagnostic, counseling and treatment services are not available to the client at no cost.
 - (2) The client misses scheduled mental health and substance abuse diagnostic or treatment appointments because of verified adverse circumstances beyond their control, as determined by AFS, such as:
 - (a) A court appearance or temporary incarceration (30 days or less).
 - (b) A breakdown in transportation with no readily accessible alternative. However, the client must explore other modes of transportation for future appointments and activities.
 - (c) Inclement weather that prevented the client and others similarly situated from traveling.
 - (d) Family problems, including medical, legal or school problems with other family members.
 - (e) A legitimate breakdown in communication, such as AFS or contractor failure to inform the client of an appointment.
 - (f) Adequate child care (or day care for an incapacitated person in the household) is not available or there is a breakdown in child care arrangements for a child in the household. The client must attempt to get child care from another provider.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-135-0089**Demonstrating Cooperation with Substance Abuse/Mental Health Requirements**

Clients who are penalized for noncooperation with substance abuse/mental health requirements must demonstrate cooperation before the penalty can be ended.

(1) Cooperation assignments must comply with the following:

(a) For the first month at any level of penalty, if an appropriate activity is not immediately available, a client statement of intent to cooperate will serve as the demonstration of cooperation.

(b) After the first month at any level of penalty, the cooperation activity is determined by AFS on a case-by-case basis, taking into account the client's circumstances.

(2) After the client successfully completes their demonstration of cooperation, restore cash benefits as follows:

(a) When the client requests to demonstrate cooperation in the first month of a first-level penalty, restore cash benefits back to the first of the month.

(b) For the second through fifth penalty months, restore cash benefits to the date the client requested to demonstrate cooperation.

(c) For the sixth and subsequent penalty months, cash benefits are ended. The client is treated as an applicant and must successfully complete Applicant Work Search to be eligible for ADC-BAS.

(3) When clients demonstrate cooperation after receiving a notice, but before the penalty effective date, consider the penalty as having been imposed for one month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-135-0095**Specific Requirements; ADCM-EXT**

(1) To be eligible for ADCM-EXT, a family must have been determined eligible for the ADC-BAS, ADCM-BAS or Assessment Program, and have lost their eligibility because of an increase in the caretaker relative's earnings or in child support. The increase must have occurred after they were determined eligible for one of these programs.

(2) Once ADCM-EXT eligibility is established, there are no financial requirements and dependent children in the benefit group no longer have to meet deprivation.

(3) Benefits continue for the time period specified in OAR 461-135-0096 unless:

(a) The filing group no longer includes a dependent child; or

(b) The family moves out of state.

(4) Clients who are serving an Oregon Option disqualification when the filing group becomes eligible for ADCM-EXT can be included in the benefit group if they are otherwise eligible for ADC-BAS, ADCM-BAS or the Assessment

Program.

(5) If the filing group loses ADC-BAS, ADCM-BAS or Assessment Program eligibility for more than one reason, establish eligibility for ADCM-EXT using increased income first, then increased child support.

(6) A member of the benefit group who was ineligible for ADC-BAS because of fraud at any time during the last six months the benefit group received ADC-BAS is not eligible for ADCM-EXT.

(7) ADCM-EXT eligibility can be regained as follows:

(a) If a benefit group becomes ineligible for ADCM-EXT for any reason, they cannot receive ADCM-EXT benefits again until they meet the requirements listed in this rule.

(b) A person who leaves the household during the ADCM-EXT eligibility period loses eligibility, but can regain it for the balance of the period when they return, if the rest of the family has been continuously eligible.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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 13-1991, f. & cert. ef. 7-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; 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

461-135-0096

Eligibility Period; ADCM-EXT

(1) Once eligibility for ADCM-EXT is established, the period of eligibility is one of the following:

(a) Four calendar months, if eligibility is based on increased child support.

(b) Twelve calendar months, if eligibility is based on an increase in the caretaker relative's earnings.

(2) The ADCM-EXT eligibility period begins the first of the month following the end of ADC-BAS/Assessment Program eligibility. If a benefit group received ADCM-BAS in error and they would have been eligible for ADCM-EXT, the ADCM-BAS benefits are not an overpayment. However, the length of time the benefit group received ADCM-BAS in error applies to the ADCM-EXT eligibility period.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 9-1997, f. & cert. ef. 7-1-97

461-135-0097

Reporting Requirements; ADCM-EXT

(1) This rule applies to benefit groups who are eligible for up to 12 calendar months of ADCM-EXT, based on one or more of the following:

(a) An increase in the caretaker relative's earnings;

- (b) An increase in the number of hours worked by the ADC-PWE to 100 or more hours per month;
- (c) Expiration of the \$30 or \$30 and 1/3 earned income deductions.
- (2) To be eligible for benefits in the eighth and ninth months, the benefit group must report the following by the 21st day of the seventh month of benefits (unless they are unable to do so due to circumstances beyond their control):
 - (a) The financial group's gross earned income in each of the preceding three months; and
 - (b) Their share of dependent care costs in each of the preceding three months.
- (3) To be eligible for benefits in the 11th and 12th months, the benefit group:
 - (a) Must have been eligible for benefits in the seventh through ninth months; and
 - (b) Must report the following by the 21st day of the tenth month:
 - (A) The financial group's gross earned income in each of the preceding three months; and
 - (B) Their share of dependent care costs in each of the preceding three months.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 183, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; Suspended by AFS 8-1997(Temp), f. & cert. ef. 7-1-97

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

461-135-0150

Specific Requirements; ADCM-SAC

To be eligible for ADCM-SAC, a child must be in one of the following groups:

- (1) In Title IV-E substitute care, including children who have all or part of their maintenance costs paid by a public agency of any state.
- (2) Children for whom a public agency of Oregon is assuming at least partial financial responsibility, and who are in any of the following living situations:
 - (a) In an Intermediate Care Facility, Intermediate Care Facility for the Mentally Retarded or licensed psychiatric hospital;
 - (b) In state-funded foster care or other substitute care approved by a public agency of Oregon;
 - (c) In independent living situations.
- (3) Children receiving adoption assistance who are assumed eligible per OAR 461-135-0010.

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 22-1995, f. 9-20-95, cert. ef. 10-1-95

461-135-0170

Eligibility for 1972 COLA Clients; ADCM

The following people are eligible for ADCM (except ADCM-EA), if they meet all eligibility requirements except that they are over income because of a SSB cost-of-living increase in July 1972, and:

- (1) They received SSB in August 1972; and
- (2) They received benefits under ADCM or a state program for the aged, blind or disabled, or were eligible for such a program; or
- (3) They would have been eligible if they had not been in a medical facility.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0180

Specific Requirements; ADC-BAS/UN Pay-After-Performance

- (1) When applying for ADC-BAS benefits with deprivation based on un/underemployment, each mandatory parent must cooperate with JOBS Initial Job Search requirements for two consecutive weeks.
 - (a) If only one parent is mandatory, they must participate in Initial Job Search for 40 hours per week unless:
 - (A) The maximum scheduled hours in the district or branch for Initial Job Search is less than 40 hours per week. If so, the parent must participate in Initial Job Search for the local maximum weekly hours; or
 - (B) The parent's condition or circumstances prevent them from participating 40 hours per week. If so, the parent must participate in Initial Job Search for the maximum number of hours weekly that their circumstances permit.
 - (b) If both parents are mandatory, one parent must participate in Initial Job Search for 40 hours per week, unless limited per subsection (1)(a) of this OAR.
 - (c) If any mandatory parent does not comply with Initial Job Search requirements, the filing group is ineligible.
- (2) To continue to be eligible for ADC-BAS benefits based on unemployment, each mandatory parent must participate in JOBS program activities each week.
 - (a) If only one parent is mandatory, they must participate in a JOBS activity for 40 hours per week, unless limited per subsection (1)(a) of this OAR.
 - (b) If both parents are mandatory:
 - (A) One parent must participate for 40 hours per week, unless limited per subsection (1)(a) of this OAR; and
 - (B) The second parent must participate for at least 20 hours per week.

(3) Full ongoing ADC-BAS benefits are issued only when the mandatory parents complete their JOBS activity assignments within the participation period. The participation period is from the 16th of one month through the 15th of the next. If the parent does not complete their activities, the following applies:

- (a) For the first four months in which the parents do not complete their JOBS assignment, the actual hours of activities performed, plus missing hours for which the client has good cause, are divided by the required hours of activity. The full monthly ADC-BAS benefit is then multiplied by this figure to arrive at the prorated benefit amount.
- (b) For the fifth and any subsequent months in which the parents do not complete their JOBS assignments, the filing group does not receive ADC-BAS benefits.
- (c) In addition, when calculating FS benefits, if a cash payment is reduced or closed due to failure to comply with Pay-After-Performance requirements, count the amount the cash payment would be if the penalty had not been imposed, for the duration of the penalty.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist: 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 9-1997, f. & cert. ef. 7-1-97

461-135-0200

Multiple Disqualifications, Change in JOBS Status; ADC-BAS

- (1) For clients serving both a JOBS or substance abuse/ mental health penalty and an SED or third-party recovery disqualification, apply the disqualifications as follows:
- (a) In the first four months (levels 1 and 2), apply the SED disqualification by removing the noncooperating client from the need group and ending their ADCM benefits. Apply the Oregon Option disqualification by deducting \$50 from the ADC payment standard.
 - (b) In the fifth and subsequent months, apply the SED penalty by continuing to deny ADCM to the person who caused the SED disqualification. Apply the JOBS disqualification by ending ADC-BAS cash benefits for the entire filing group.
- (2) An exempt client who becomes JOBS mandatory while serving an ADC eligibility penalty for noncooperation with substance abuse/mental health requirements continues under that progressive penalty until they demonstrate cooperation.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-135-0210

ADC Client Incentives

Incentive payments are intended to recognize AFS clients' progress toward employment and motivate them to attain self-sufficiency.

(1) ADC filing groups receive a monthly cooperation incentive as long as they are cooperating with a plan for self-sufficiency.

(a) Clients receive this incentive as a monthly special need added onto their ADC benefit amount per OAR 461-155-0525.

(b) The benefit group can receive only one monthly payment, no matter how many clients are participating. If any member of the filing group fails to participate in their self-sufficiency plan, the benefit group does not receive the cooperation incentive.

(c) Clients are not eligible for the cooperation incentive if:

(A) They do not participate in developing, and cooperate with, their self-sufficiency plan; or

(B) Their ADC grant is reduced because of an IPV or noncooperation with SED, JOBS, Pay-After-Performance or substance abuse/mental health requirements.

(d) When recipients who have been receiving the cooperation incentive lose it due to noncooperation, it is still counted as part of their ADC-BAS grant when calculating FS benefits.

(2) In addition, outcome incentives are available to recognize landmark accomplishments that support AFS goals.

(a) Clients select the form of the outcome incentive from a locally determined list of options, which may include AFS payment of the ERDC copay, tuition for a local community college course, or clothes or other gifts for their children. The value of the incentive cannot exceed one month's grant amount.

(b) Outcome incentives are available only to clients served by pilot branches with approved incentive plans.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-135-0300

Reason for Emergent Need; ADC-EA, ADCM-EA

To be eligible for ADC-EA or ADCM-EA, all financial groups except those whose emergent need is due to domestic violence and those who are referred to AFS by the Community Action Agencies because they are homeless, must meet all the following:

(1) The financial group must have an emergent need that occurred as a result of one of the following:

(a) Natural disaster;

(b) No income or food stamps available to meet food needs;

(c) No medical resources available to meet medical needs;

(d) Shelter needs due to one of the following:

(A) Unsafe housing;

(B) To protect people from an abusive situation;

- (C) Homelessness;
- (D) Utility shut-off;
- (E) Foreclosure;
- (F) Pending or actual eviction for reasons other than the following:
 - (i) Not taking adequate care of a rental unit;
 - (ii) Creating a public nuisance.

(2) The emergent need must not be because the financial group failed to use available income to prevent the emergency, unless the income became unavailable due to circumstances beyond the group's control. This is true for the calendar month of application and the calendar month immediately preceding the month of application. Circumstances beyond the group's control include, but are not limited to, the following:

- (a) Loss of income due to theft when the financial group took reasonable precautions to prevent the theft;
- (b) Having to use the income for unexpected need such as car repairs when the car is used for work or a family emergency.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.116, 411.300, 411.632, 411.700, 411.710, 411.816, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

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

461-135-0310

Type of Emergent Need; ADC-EA, ADCM-EA

Make payments only for the following emergent needs:

- (1) The following shelter needs:
 - (a) Rent, mortgage and utility costs, including basic payments, connection charges and deposits;
 - (b) Domestic violence shelter or "safe home" costs for room and board;
 - (c) Moving costs;
 - (d) Property tax up to one year, if necessary to avoid foreclosure;
 - (e) Transportation to another area or residence. Families that have emergent needs may choose to return to their state of former residence. Families with needs that arise as a result of an abusive situation may choose to move to another area or state;
 - (f) Repairs to provide safe housing. One-time house, electrical and plumbing repairs if essential to the health and safety of the occupants if less costly than moving to other quarters. Repairs are provided for homeowners, buyers and holders of a life estate.

- (2) Food needs.
- (3) Medical needs as follows:
 - (a) Medical care for situations that appear to be life-threatening at the time of occurrence;
 - (b) Medical care necessary to prevent a medical problem from becoming life-threatening;
 - (c) Medical care determined necessary by the branch office.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0320

Time Limits; ADC-EA, ADCM-EA

- (1) Once a financial group is determined eligible for ADC-EA or ADCM-EA and benefits are issued, the benefit group is eligible for 30 consecutive days. Do not count ADC-EA or ADCM-EA the benefit group received in another state when determining the 30 consecutive days. Within the 30-day time frame, benefits may be given as often as necessary to meet additional emergent need.
- (2) A benefit group can receive ADC-EA or ADCM-EA for a period of 30 consecutive days only once during a 12-month period in Oregon. Do not count ADC-EA or ADCM-EA the benefit group received in another state when determining this limit. If any member of the filing group received ADC-EA or ADCM-EA in the past 12 months in Oregon, the entire group is considered to have received benefits.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, 411.816, 414.042, Ch. 416 & 418

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

461-135-0340

Work Requirements; ADC-EA, ADCM-EA

To be eligible for ADC-EA or ADCM-EA, an adult filing group member, or a dependent child (who, under ADC-BAS requirements, is mandatory to participate with JOBS) must not have done any of the following without good cause per OAR 461-130-0240 in the 30 days before receiving benefits:

- (1) Quit or refused a job.
- (2) Refused a referral to a job or training.
- (3) Caused their dismissal from a job per OAR 461-130-0222.
- (4) Reduced their earnings.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 414, 416 & 418

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

461-135-0350

Eligible People; ADC-EA, ADCM-EA

To be eligible for ADC-EA or ADCM-EA, a client must be one of the following:

- (1) A dependent child. A dependent child who has been or will be receiving foster care payments for more than 30 days is not eligible while they are receiving the payments.
- (2) Caretaker relative of an eligible dependent child in the same filing group. The caretaker relative may still be eligible if the only dependent child is ineligible because:
 - (a) The child receives SSI; or
 - (b) The child is in foster care, but is expected to return home within 30 days. Add these children to the benefit group when they return home, if they return within the 30-day time frame.
- (3) Mother of an unborn child. The mother's pregnancy must have reached the calendar month before the month in which the due date falls. (The due date must be determined and verified by a medical practitioner.)

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 411.060 & ACF-AT-94-5

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91

461-135-0400

Specific Requirements; ERDC

To be eligible for ERDC, filing groups must meet the following criteria:

- (1) For ERDC-BAS, one or both caretakers must be employed. Employed means working that results in earned income. For persons who are in the start-up phase of self-employment, working on commission or participating in job-related training that is a condition of employment, the requirement to have earned income may be waived for three months. Eligible employment includes work study.
- (2) For ERDC-SBG, at least one caretaker must be a student who meets the following:
 - (a) They must be:
 - (A) An undergraduate who has been formally admitted to a post-secondary institution and registered for or attending school full time. For the purpose of this OAR, full time means at least nine quarter hours or six semester hours of education for credit; or
 - (B) A trainee in a short-term, post-secondary training program. The program must be at an institution that is eligible for federal financial aid.

- (b) They must attend school for at least:
 - (A) Three out of four school quarters; or
 - (B) Two semesters per year; or
 - (C) For trainees in short-term training programs, an equivalent time period.
- (c) Students may use ERDC-SBG benefits for school or employment-related child care needs during an absence from school or during a term in which they are attending school less than full time (as defined in paragraph (2)(a)(A) of this OAR) if:
 - (A) They provide proof of intent to resume school full time after the absence or part-time term; and
 - (B) The absence or part-time status does not last longer than:
 - (i) One out of four school quarters; or
 - (ii) For students on the semester system, not longer than the summer break period.
- (3) The family must have an allowable child care need per OAR 461-160-0040. In a two-parent household, the unemployed parent is considered available to provide child care. This makes the group ineligible, except in the following situations:
 - (a) The branch office determines that the unemployed parent is physically or mentally unable to provide adequate child care; or
 - (b) For ERDC-SBG, the unemployed parent:
 - (A) Is physically or mentally unable to provide adequate child care; or
 - (B) Meets the student criteria in section (2) of this OAR.
- (4) The caretaker must agree to use a child care provider who meets the requirements in OARs 461-165-0160 and 461-165-0180.
- (5) ERDC payments are made:
 - (a) As provider-direct payments per OAR 461-165-0160; or
 - (b) As client-direct payments per OAR 461-165-0190.

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 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

461-135-0415

ERDC Requirement to Make Copay or Satisfactory Arrangements

- (1) For ERDC, the caretaker is responsible for paying the child care copay or making satisfactory arrangements with the

provider to pay.

(2) The client must designate a primary provider to whom they pay their copay. The primary provider is generally the one who provides the most care. If the client has only one provider, that provider is the primary provider. If the copay exceeds the billed amount, AFS has the authority to change the primary provider designation or split the copay among the multiple providers who bill for care.

(3) The client's copay amount is determined by AFS, based on the family's income and family size.

(4) There is no copay for the first month of ERDC eligibility if:

(a) The ERDC filing group received ADC-BAS the previous month; and

(b) The Child Care Billing Form was sent to the provider showing a zero copay.

(5) If the client fails to meet the copay requirement, they are ineligible as follows:

(a) If a provider indicates that a client did not make the required copay, or has not made satisfactory arrangements to pay, end benefits at the end of the month in which the provider notifies DPU that the copay was not made, unless next month's Child Care Billing Form was already mailed. If so, end benefits at the end of the month covered by the Child Care Billing;

(b) A provider has up to 60 days after the payment date to notify the Direct Pay Unit (DPU) that the copay or satisfactory arrangements have not been made. If the provider fails to notify AFS within 60 days, AFS will consider the copay requirement met;

(c) If the client later requests ERDC, there is no eligibility until past copays owed are paid or satisfactory arrangements are made with the former provider.

(6) DPU or the AFS worker determines whether the arrangements for payment are satisfactory, using any of the following criteria:

(a) The provider agrees the arrangements are satisfactory;

(b) The provider does not agree the arrangements are satisfactory, but the filing group submits evidence that payment has been made (for example, a receipt or a cancelled check) or that they have attempted to pay the provider;

(c) The client attempts to pay their provider, but the provider cannot be located.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.710

Stats. Implemented: ORS 411.060

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

461-135-0475

Specific Requirements; Assessment Program

(1) Clients applying for ADC-BAS, except for those required to participate in two weeks of Pay After Performance activities, must participate in the Assessment Program if they are presumed to meet ADC eligibility requirements. Use ADC-BAS policy to determine eligibility, unless indicated otherwise in specific OARs. Eligibility determination is based on the client's declaration.

(2) Clients participating in the Assessment Program do not receive an ADC cash grant. They may receive other program benefits if they meet the eligibility requirements for those programs.

(3) The Assessment Program must be offered to ADC-BAS applicants within 15 days of the date of request for ADC-BAS. The Assessment Program begins on the date that clients are assigned activities on their initial self-sufficiency plan. It ends when any of the following occurs:

- (a) 30 consecutive days have passed since the formal assessment began.
- (b) The client begins full or part-time employment that is expected to result in, or lead to, self-sufficiency.
- (c) The client is placed in a JOBS Plus assignment.
- (d) AFS determines that the client is unlikely to benefit from continued participation due to their individual circumstances, such as situations of domestic violence.
- (e) The ADC application is withdrawn or denied.

(4) To receive benefits through the Assessment Program, clients must work with AFS in developing, and cooperate with, their assigned self-sufficiency activities.

(5) Clients may receive the following benefits and services through the Assessment Program:

- (a) Help with basic living expenses, in the minimum amount necessary to meet those needs. These needs include shelter costs, utilities, household supplies, personal incidentals, etc.
- (b) Support service payments within the service district's allocation, necessary to support participation in assigned self-sufficiency activities.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040 & 418.100

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97

461-135-0505

Categorical Eligibility; FS

(1) A filing group that is categorically eligible for FS is assumed to meet the resource, income, SSN and residency requirements. They are not assumed eligible for FS; they must meet all other requirements. Categorical eligibility does not end FS disqualifications.

(2) To be categorically eligible for FS, all filing group members must meet one of the following:

- (a) Receive ADC-BAS, ADCM-BAS, GA, GAM, SSI or Assessment Program benefits.
- (b) Be considered to be receiving SSI under 1619(a) or 1619(b) of the Social Security Act.
- (c) Not receive ADC-BAS, ADCM-BAS or SSI only because they are an ineligible alien.

(3) When a filing group contains some members who meet categorically eligible criteria and others who do not, exclude the resources of those who meet the criteria. Do this even if the resources are jointly owned by those who meet categorically eligible criteria and those who do not.

Stat. Auth.: ORS 411.060

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

461-135-0510

People in Institutions; FS

For FS, treat people who live in an institution that provides them with at least 50 percent of their meals as follows:

(1) People in a general hospital, state institution, intermediate care facility or semi-skilled or skilled nursing facility are not eligible.

(2) Residents of an RCF can receive benefits only if all the following are true:

(a) The facility is public or nonprofit, serves no more than 16 residents and is licensed by the State of Oregon according to regulations issued under Section 1616(e) of the Social Security Act;

(b) The resident applies through an authorized representative who is an employee of the facility, unless the facility determines that the resident can apply on their own;

(c) The person is blind or disabled and receiving SSB or SSI;

(d) The person meets all other FS eligibility requirements.

(3) The following are not considered institutions:

(a) Domestic violence shelters;

(b) Public or private nonprofit shelters for homeless people;

(c) Federally subsidized housing for the elderly built under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, Ch. 412, 413, 414.042, Ch. 416 & 418

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

461-135-0520

Time Limit; FS

(1) *Able-bodied adults without dependents* (ABAWDs) are clients age 18 and over, or under age 50, without dependents. For the purpose of defining *ABAWDs*, without dependents means:

(a) There is no child under age 18 in the filing group; or

(b) There is a child under age 18 in the filing group, but there are more than 2 adults in the ABAWD age range. If there

are more than 2 adults, the household chooses which adult(s) is classified as an ABAWD.

(2) ABAWDs become ineligible for FS after receiving 3 countable months of benefits. They remain ineligible as long as they have 3 countable months of benefits in the last 36 consecutive months, unless they regain eligibility as specified in item (6) below or become exempt.

(3) The count of months begins on December 1, 1996. A *countable month* of benefits is any month that meets all the following:

(a) Benefits are not prorated.

(b) The ABAWD is not exempt for any part of the month.

(c) The non-exempt ABAWD does not meet the participation requirements of section (5) of this OAR.

(4) ABAWDs are not subject to the time limit when they meet one of the following exemptions:

(a) They are pregnant.

(b) They are exempt per the FS criteria in OAR 461-130-0070(2), excepting paragraph (f)(E).

(c) They reside in Baker, Coos, Crook, Curry, Douglas, Grant, Harney, Hood River, Josephine, Klamath, Lake, Morrow, Umatilla, Wallowa, Wasco or Wheeler county.

(5) ABAWDs who are not exempt must do one of the following, as designated in their plan approved by the Division, in order for a month of benefits not to be counted:

(a) Work for pay, or voluntarily without pay, an average of 20 hours or more per week. Voluntary work must be performed for private for-profits, private non-profits, or governmental agencies. For self-employed clients, countable income after deducting the costs of producing income must average at least the Oregon minimum wage for 20 hours per week.

(b) Participate in a program under JTPA.

(c) Participate in a program under section 236 of the Trade Act of 1974.

(d) Participate an average of 20 hours or more per week in an employment and training activity that is not job search or job search training (e.g., working under a JOBS Plus agreement).

(e) Comply with FS Workfare per OAR 461-190-0600.

(6) Accept proof of exemption to reverse the determination of whether a month is countable within 90 days from the end of the month that was counted.

(7) When a mandatory ABAWD who has lost eligibility due to the time limit is in a filing group with others receiving FS benefits, add the ABAWD back to the benefits the first of the month following the month in which the Division becomes aware that the ABAWD's status has changed to exempt, per section (4) of this OAR.

(8) FS eligibility may be regained by ABAWDs who are otherwise eligible as follows:

(a) ABAWDs who have become ineligible due to this time limit can regain FS eligibility if they meet the requirement for 80 hours or more per subsection (5)(a) or (d), participate per (5)(b) or (c), or meet the workfare requirement per (5) (e), in a 30-day period while they are ineligible. Their eligibility begins the day after the 30-day cooperation period ends.

(b) ABAWDs maintain FS eligibility as long as they meet the requirements of section (5) above and are otherwise

eligible. When they fail to meet those requirements, they can receive FS for 3 full consecutive months, beginning with the month after the month in which they notify the Division of the change.

(c) ABAWDs can regain FS eligibility any time they meet the criteria in subsection (6)(a), but they get the 3 consecutive month benefit of subsection (6)(b) only once in any consecutive 36-month period.

(9) ABAWDs who complete the activities in subsection (5)(b-e) above during their OFFSET period have met the OFFSET requirement.

(10) ABAWDs involved in the activities specified in section (5) or (6) above or an OFFSET activity per OAR 461-190-0310 are eligible for support service payments to reimburse necessary transportation or other costs related to completing the activity.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 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

461-135-0530

People in Adult Foster Care (AFC) and Boarding Houses; FS

For FS, treat residents of commercial boarding houses and AFC as follows:

(1) Residents of commercial boarding houses are not eligible. The owner/manager of the boarding house and their filing group may receive benefits separate from the residents.

(2) For AFC:

(a) Residents of nonrelative AFC not licensed by the State are not eligible;

(b) Residents of nonrelative and relative AFC facilities licensed by the state must apply with their caregiver to be eligible for FS, per rule 461-110-0370.

Stat. Auth.: ORS 411.060

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

461-135-0550

Residents of Drug/Alcohol Treatment Facilities; FS

(1) For residents of drug/alcohol treatment facilities to be eligible for FS, the facility must be certified through the State of Oregon, Office of Alcohol and Drug Abuse Programs.

(2) All residents must apply through an authorized representative who is an employee of the facility.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, 411.816, 414.042, Ch. 416 & 418

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

461-135-0570

Eligible and Ineligible Students; FS

(1) For the purposes of this rule, higher education includes the following:

(a) All public and private universities, state colleges and community colleges. However, GED, ABE, ESL and high school equivalency programs at these institutions are not considered higher education;

(b) All post-secondary vocational or technical schools that normally require a high school diploma or equivalency certificate for enrollment in the institution or in a particular program at the institution. However, programs at these institutions that do not require the diploma or certificate are not considered higher education.

(2) A person age 18 through 49 who is not disabled and who is enrolled at least half time in higher education is ineligible to receive FS benefits, unless any of the following is true:

(a) The student is:

(A) A paid employee working a minimum of 20 hours per week; or

(B) Self-employed for a minimum of 20 hours per week, receiving weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(b) The student is approved for state or federally funded work-study and expects to actually perform work in a work-study job in the current term or semester:

(A) Eligible student status begins with the month in which school begins or with the month that work study is approved, whichever is later;

(B) Eligibility continues for the duration of the term or semester, unless the student refuses a work-study job;

(C) Eligibility 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 is responsible for the care of a child in the filing group, and the child is:

(A) Under age six; or

(B) Age 6 through 11, and the branch office determines that adequate child care is not available.

(d) The student is enrolled full time in higher education and is a single parent or a single adult who has parental control, with the responsibility of caring for a child under age 12;

(e) The student is in an ADC-BAS benefit group;

(f) The student is physically or mentally unfit for employment;

(g) The student is in job training classes through JTPA;

(h) The student is in a program serving displaced workers (per Section 236 of the Trade Act of 1974);

(i) The student is enrolled as a result of participation in the JOBS or OFSET programs;

(j) The student is enrolled as a result of employer-sponsored on-the-job training.

(3) A student's enrollment status continues during school vacation and breaks. A student's enrollment status ends when the student graduates, drops out (as verified by their disenrolling), is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

Stat. Auth.: ORS 411.060

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 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

461-135-0575

FS Expedited Services

(1) Filing groups that meet the criteria in any one of subsections (1)(a)-(c) of this OAR are eligible for FS expedited services unless they apply for FS before the end of their current certification:

(a) Filing groups whose countable income is less than \$150 a month and whose resources in the form of cash and bank accounts do not exceed \$100.

(b) Filing groups whose combined monthly countable income, cash and bank account balances are less than the group's total monthly rent/mortgage and actual utility costs.

(c) Filing groups defined as destitute. These are groups in which one member is a migrant or seasonal farm worker and for the initial month, or the first month of the redetermination period, all the following are true:

(A) Any income for that month that is received before the filing date is from a terminated source.

(B) Any income for that month that is more than \$25 is from a new source, and will not be received until after the tenth calendar day following the filing date.

(C) Total resources in the form of cash and bank accounts, and any lump-sum payments received during the month, are \$100 or less.

(2) There is no limit to the number of times a benefit group may receive FS expedited services. However, all eligibility factors from the previous FS expedited service must be verified before the client can receive FS expedited service again.

Stat. Auth.: ORS 411.060

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 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

461-135-0580

Meals on Wheels; FS

The following FS recipients and their spouses may use FS benefits to purchase meals prepared for them and delivered to them by a nonprofit meal-delivery service authorized by FCS:

- (1) People age 60 or over.
- (2) Housebound people.
- (3) Physically handicapped or otherwise disabled people who are unable to adequately prepare their meals.

Stat. Auth.: ORS 411.060,

Stats. Implemented: ORS 411.816 & 418.047

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

461-135-0590

Communal Dining; FS

For FS, recipients age 60 or over and their spouses, or those receiving SSI and their spouses, may use FS benefits issued to them to purchase meals prepared especially for them at communal dining facilities authorized by FCS for that purpose.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.816 & 418.047

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

461-135-0600

Tribal Food Distribution Program; FS

- (1) If any filing group member is participating in the Tribal Food Distribution Program, do not allow the filing group to partici-pate simultaneously in the FS program.
- (2) Tribal organizations participating in Tribal Food Distribution in Oregon are the Burns-Paiute Tribe, the Confederated Tribes of the Siletz, the Klamath Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Grand Ronde, the Confederated Tribes of Warm Springs and the Yurok Tribe.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.710

Stats. Implemented: ORS 411.816 & 7 CFR 273.7(e)

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 19-1994, f. & cert. ef. 9-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95

461-135-0610

Homeless Meal Providers; FS

Homeless FS recipients may use their FS benefits to purchase prepared meals from homeless meal-providers who are certified by the state and authorized by FCS to accept FS benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.816 &418.047

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

461-135-0700

Specific Requirements; GA, GAM

To be eligible for GA and GAM, the person must:

- (1) Be one of the following:
 - (a) A childless individual who meets the GA impairment criteria.
 - (b) A childless couple who either:
 - (A) Both meet the GA impairment criteria; or
 - (B) One meets the GA impairment criteria and the other is an essential person.
 - (c) An essential person. An essential person is a needy household group member who is added to the filing group and:
 - (A) Provides a service necessary to the health or protection of the unemployable person; and
 - (B) Including the person in the filing, financial, need, and benefit group is less expensive than purchasing the service from another source.
- (2) Be ineligible for ADC, OSIP, or REF.
- (3) Individuals who meet the qualified non-citizens requirements as specified in OAR 461-120-0125, and were admitted to the U.S. prior to August 22, 1996, are eligible for GA provided they pursue their U.S. citizenship, apply for SSI, and meet any of the following criteria:
 - (a) Require long-term care services and meet all other GA financial and nonfinancial requirements; or
 - (b) Meet the GA impairment criteria as specified in OAR 461-125-0510, and all other GA financial and nonfinancial requirements.

Stat. Auth.: ORS 411.060 & 412.520

Stats. Implemented: ORS 411.060 & 412.520

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

461-135-0705

Specific Requirements; GA, GAM Ineligible

- (1) A person who is a resident of a public institution or private psychiatric hospital, or is being held for a proceeding in connection with commitment to such an institution, is ineligible for GA and GAM.
- (2) A person who has exhausted all appeals for SSI is not eligible for GA and GAM unless they file and pursue a new SSI application based on a different medical condition than originally alleged or the alleged medical condition has significantly worsened. The new medical condition must meet the GA impairment criteria.
- (3) If an individual has been determined to no longer meet the GA or SSI impairment criteria, they are ineligible for GA and GAM.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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

461-135-0710

Specific Requirements; OSIP

- (1) To be eligible for OSIP, a person must be receiving SSI, or not be receiving SSI only for the following reasons:
 - (a) Their income exceeds SSI standards but is under OSIP standards; or
 - (b) They have a sales contract with a principal value that exceeds SSI resource limits.
- (2) A determination by SSA that a person is or is not eligible for SSI is accepted by the Division as a determination of eligibility for OSIP.

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92

461-135-0720

Specific Requirements; OSIPM-MN

To be eligible for OSIPM-MN, a person must be:

- (1) Ineligible for OHP.
- (2) One of the following:
 - (a) Blind, or disabled and under age 18 and, except for level of income or resources, eligible for SSI;
 - (b) Aged, blind or disabled, age 18 or older and, except for level of income or resources, eligible for OSIPM-AB, OSIPM-AD or OSIPM-OAA;
 - (c) In a medical facility or in a waiverable home or community-based setting and have income that exceeds 300 percent

of the SSI income standard.

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 2-1994, f. & cert. ef. 2-1-94

461-135-0730

Specific Requirements; QMB

(1) The following requirements apply to QMB-BAS:

(a) To qualify for QMB-BAS, a person must be receiving Medicare hospital insurance under Part A. This includes people who must pay a monthly premium to receive coverage;

(b) Clients who qualify for QMB-BAS are not eligible to receive the full range of the Division's medical services. QMB-BAS benefits are limited to payments toward Medicare cost-sharing expenses. These expenses are:

(A) Medicare Part A and B premiums; and

(B) Medicare Part A and B deductibles and coinsurance up to the Division's fee schedule.

(2) The following requirements apply to QMB-DW:

(a) To qualify for QMB-DW program, a person must be eligible for Part A of Medicare as a qualified disabled worker under Section 1818(A) of the Social Security Act. These are people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed, but can continue to receive Part A of Medicare by paying a premium;

(b) QMB-DW clients are eligible *only* for payment of their premiums for Part A of Medicare. They are not eligible for ADCM or OSIPM at the same time.

(3) The following requirements apply to QMB-SMB:

(a) To qualify for QMB-SMB, a person must be receiving Medicare hospital insurance under Part A. This includes people who must pay a monthly premium to receive coverage;

(b) Clients who qualify for QMB-SMB are not eligible to receive the full range of the Division's medical services. QMB-SMB benefits are limited to payment of Medicare Part B premiums.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, Ch. 412, 413, 414, 416 & 418

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

461-135-0750

Eligibility for People in Long-Term Care or Waivered Services; OSIPM

For OSIPM, people who are in long-term care or are receiving waived services and who meet all eligibility

requirements, except that they are over income, are eligible if their income is at or below 300 percent of the full SSI standard for a person living alone in the community.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

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

461-135-0760

Oregon's Home/Community-Based Care Title XIX Waiver Program; OSIPM

For OSIPM, a person is eligible under the Oregon Title XIX Waiver in their own home or in community-based care if all the following are true:

- (1) They are ineligible for SSI or OSIP solely because of their income.
- (2) They have income at or below 300 percent of SSI standards.
- (3) They would be eligible for OSIPM if they were in a Skilled or Intermediate Care Nursing Facility or Intermediate Care Facility for the Mentally Retarded.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0765

Eligibility for Non-Citizens; OSIPM

People are eligible for OSIPM if they meet all the following:

- (1) Are qualified non-citizens per OAR 461-120-0125.
- (2) Were admitted to the U.S. before August 22, 1996.
- (3) Would be eligible for SSI, except for their alien status.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97

461-135-0770

Eligibility for Grandfathered Clients; OSIP, OSIPM

People are eligible for OSIP and OSIPM if:

- (1) They were grandfathered into SSI in December 1973.
- (2) They have continuously met the SSI eligibility criteria used in December 1973, including the criteria for blindness and disability.
- (3) They are the essential spouse of a person grandfathered in December 1973:
 - (a) The grandfathered person and essential spouse are living in the same household; and
 - (b) The essential spouse provides a service that otherwise would have to be provided by some other means.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0780

Eligibility for Pickle Amendment Clients; OSIPM

- (1) Clients may retain eligibility for OSIPM under the Pickle amendment. The following people are eligible for OSIPM if they meet all eligibility requirements except that they are over income because of a SSB cost-of-living increase after July 1977, and:
- (a) After April 1977, they received SSB and SSI/OSIP in the same month, then lost SSI/OSIP eligibility for any reason, but continued to receive SSB; and
 - (b) They would be eligible for SSI/OSIP if the SSB cost-of-living increases since they last received SSI/OSIP were subtracted from the financial group's current SSB(s).
- (2) Use the SSB amount received by the client when they lost their eligibility for SSI/OSIP as the client's countable income. If the amount is unknown, calculate it. To determine the SSB amount received by the client when they lost eligibility for SSI/OSIP:
- (a) Divide the current SSB benefit amount by the percentage of the previous year's COLA. This will provide the client's benefit level prior to the COLA.
 - (b) Repeat the computation to determine the client's SSB amount when they lost eligibility for SSI/OSIP.
 - (c) When the last computation is completed, the result in most cases will be the SSB amount the client was receiving when they lost SSI/OSIP (use the SSB amount from the computation even when the SSB amount has changed for a reason other than a COLA). Add this amount to the client's other countable income.
 - (d) Use the following percentages in this calculation:

-

$$\text{Current SSB Amount} = \text{Benefit Before 1/97 COLA}$$

1.029 (1/97 SSB Increase) (SSB from 1/96 through 12/96)

-

Benefit Before 1/97 COLA = Benefit Before 1/96 COLA

1.026 (1/96 SSB Increase) (SSB from 1/95 through 12/95)

-

Benefit Before 1/96 COLA = Benefit Before 1/95 COLA

1.028 (1/95 SSB Increase) (SSB from 1/94 through 12/94)

-

Benefit Before 1/95 COLA = Benefit Before 1/94 COLA

1.026 (1/94 SSB Increase) (SSB from 1/93 through 12/93)

-

Benefit Before 1/94 COLA = Benefit Before 1/93 COLA

1.030 (1/93 SSB Increase) (SSB from 1/92 through 12/92)

-

Benefit Before 1/93 COLA = Benefit Before 1/92 COLA

1.037 (1/92 SSB Increase) (SSB from 1/91 through 12/91)

-

Benefit Before 1/92 COLA = Benefit Before 1/91 COLA

1.054 (1/91 SSB Increase) (SSB from 1/90 through 12/90)

-

Benefit Before 1/91 COLA = Benefit before 1/90 COLA

1.047 (1/90 SSB Increase) (SSB from 1/89 through 12/89)

-

Benefit Before 1/90 COLA = Benefit before 1/89 COLA

1.04 (1/89 SSB increase) (SSB from 1/88 through 12/88)

-

Benefit Before 1/89 COLA = Benefit before 1/88 COLA

1.042 (1/88 SSB increase) (SSB from 1/87 through 12/87)

-

Benefit Before 1/88 COLA = Benefit before 1/87 COLA

1.013 (1/87 SSB increase) (SSB from 1/86 through 12/86)

-

Benefit Before 1/87 COLA = Benefit before 1/86 COLA

1.031 (1/86 SSB increase) (SSB from 1/85 through 12/85)

-

Benefit Before 1/86 COLA = Benefit before 1/85 COLA

1.035 (1/85 SSB increase) (SSB from 1/84 through 12/84)

-

Benefit Before 1/85 COLA = Benefit before 1/84 COLA

1.035 (1/84 SSB increase) (SSB from 7/82 through 12/83)

-

Benefit Before 1/84 COLA = Benefit before 7/82 COLA

1.074 (7/82 SSB increase) (SSB from 7/81 through 6/82)

-

Benefit Before 7/82 COLA = Benefit before 7/81 COLA

1.112 (7/81 SSB increase) (SSB from 7/80 through 6/81)

-

Benefit Before 7/81 COLA = Benefit before 7/80 COLA

1.143 (7/80 SSB increase) (SSB from 7/79 through 6/80)

-

Benefit Before 7/80 COLA = Benefit before 7/79 COLA

1.099 (7/79 SSB increase) (SSB from 7/78 through 6/79)

-

Benefit Before 7/79 COLA = Benefit before 7/78 COLA

1.065 (7/78 SSB increase) (SSB from 7/77 through 6/78)

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Benefit Before 7/78 COLA = Benefit before 7/77 COLA

1.059 (7/77 SSB increase)

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-135-0790

Eligibility for People in an Institution Since 1973; OSIPM

ForOSIPM, people in an institution are eligible for benefits even if their income is over 300 percent of the full SSI standard for a person living alone if:

- (1) The person has continuously met the SSI eligibility criteria used in December 1973 for people in an institution; and
- (2)The person needs institutional care as determined by SDSD/AAA pre-admission screening nurses.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0800

Eligibility for 1972 COLA Clients; OSIPM

People are eligible for OSIPM if they meet all eligibility requirements except that they are over income because of a SSB cost-of-living increase in July 1972, and:

- (1) They were entitled to receive SSB in August 1972; and
- (2) They received benefits under OSIPM or a state program for the aged, blind or disabled, or were eligible for such a program; or
- (3) They would have been eligible if they had not been in a medical facility.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0810

Eligibility for Disabled Widows/Widowers; OSIPM

People are eligible for OSIPM if they were receiving or were entitled to receive widow's or widower's SSB in December 1983, based on a disability, also received SSI/OSIP, and all the following are true:

- (1) Elimination of the actuarial reduction for people under age 60 increased their widow's or widower's benefits and made them ineligible for SSI/OSIP.
- (2) They are now and have been continuously eligible for a Social Security widow's or widower's benefit.
- (3) They would be eligible for SSI/OSIP if the amount of that increase, and all subsequent SSB cost-of-living increases, were subtracted from the current SSB.
- (4) They applied for OSIPM no later than July 1, 1988.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0820

Eligibility for COLA Widows/Widowers; OSIPM

- (1) Eligibility under this rule does not exist before July 1, 1988.
- (2) People are eligible for OSIPM if they meet all the following:
 - (a) Are at least age 60;
 - (b) Are not entitle to Medicare Part A.
 - (c) Became ineligible for SSI because of a mandatory application for, and receipt of, widow's or widower's Social Security disability benefits.

Stat. Auth.: 45 CFR 435.138

Stats. Implemented: ORS 411.060 & 42 CFR 435.138

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94

461-135-0830

Eligibility for Disabled Adult Children; OSIPM

For OSIPM, people age 18 or older who are blind or disabled and lose financial eligibility for SSI because they begin receiving (or receive an increase in) children's SSB are eligible for benefits. OSIPM eligibility continues as long as they meet SSI eligibility requirements without counting SSB 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 15-1996, f. 4-29-96, cert. ef. 5-1-96

461-135-0832

Estate Administration; Definitions

Effective July 18, 1995, for purposes of ORS 414.105, 411.795, 412.600, 413.200, 416.310 and 416.340, the terms listed below shall have the meanings ascribed to them herein; provided, however, as used in this section, 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 U.S.C. § 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 of Human Resources Estate Administration Unit shall apply the definitions and procedures set forth in OARs 461-135-0835 through 461-135-0845 to recoveries and claims made pursuant to ORS 414.105, 411.795,

412.600, 413.200, 416.310 and 416.340.

- (1) Assets means all income and resources of an individual, including any income or resources which an individual is entitled to at the time of death.
- (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) 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.
- (4) 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.
- (5) 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.
- (6) Estate means:
 - (a) With respect to the collection of payments made for services provided on or after July 18, 1995, all Real Property, Personal Property or other Assets wherever located in which a deceased individual had any Legal Title or ownership or beneficial interest at the Time of Death, including Real Property, Personal Property or Assets conveyed by the deceased individual to a Survivor, Heir or Assign of the decedent through Joint Tenancy, Tenancy In Common, Survivorship, Life Estate, Living Trust or other similar arrangement.
 - (b) With respect to the collection of payments made for services provided before July 18, 1995, all Real and Personal Property and other Assets included within an individual's estate as such estate is defined by applicable state probate law.
- (7) 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.
- (8) Interest means any form of legal, beneficial, equitable or ownership interest.
- (9) 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.

(10) Intestate Succession means succession to Real Property, Personal Property or Assets of a decedent who dies Intestate or partially Intestate.

(11) Joint tenancy means ownership of property held under circumstances which 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.

(12) Legal Title means legal ownership by a Person.

(13) Life Estate means an Interest in Real or Personal Property that terminates upon the death of a measuring life.

(14) Living Trust means a revocable intervivos trust.

(15) Ownership Documents means 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.

(16) Person means any individual, corporation, association, firm, partnership, trust, estate or other form of entity.

(17) 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.

(18) 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.

(19) 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.

(20) 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.

(21) 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.

(22) 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.

(23) Time of Death means the instant of death for the which time and date 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.

(24) Value means the fair market value as of the Time of Death of the decedent. Fair market value is the price at which Real or Personal Property would change hands between a willing buyer and a willing seller less liens and encumbrances

established by Convincing Evidence.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.105

Hist.: AFS 29-1996, f. & cert. ef. 8-28-96

461-135-0835

Limits on Estate Claims

(1) For GA, GAM, OSIP and OSIPM, the Division has a priority claim against the property or any interest therein belonging to the estate of any deceased person as provided in ORS Chapters 411, 412, 413 and 414. EAU is authorized to present and file such claim against the estate. It will be treated as a preferred claim and filed in a like manner as the claims of other creditors.

(2) If there is a surviving spouse, the Division will have a claim against the estate of the surviving spouse for aid paid to the surviving spouse. In addition, the Division will have a claim against the estate of the surviving spouse for aid paid to the deceased client, but only to the extent that the surviving spouse received property or other assets from the estate of the deceased client at the time of death. However, neither claim exists until after the death of the surviving spouse (if any) and only when there is no surviving child who is under age 21, or is blind, or permanently and totally disabled.

(3) The amount of the claim is as follows:

(a) For GA and GAM, the amount of the claim will not exceed the total amount of cash and medical benefits paid. The claim will include benefits provided under the Home and Community-Based Care Waiver program. This applies to all General Assistance programs, even those that are no longer active;

(b) For OSIP-AD, OSIP-OAA, OSIPM-AD and OSIPM-OAA, the amount of the claim shall include the total amount of cash paid at any age and all medical benefits provided after the client reached age 55. This applies to all Old Age Assistance and Aid to the Disabled clients, including those served by Home and Community-Based Care Waiver programs. It also includes clients covered by programs that are no longer active;

(c) For OSIP-AB and OSIPM-AB, the claim shall include the total amount of medical benefits provided after the client reached age 55. The claim will include benefits provided under the Home and Community-Based Care Waiver program;

(d) For OSIP, OSIPM-AB, OSIPM-AD and OSIPM-OAA, the amount of the claim shall also include the total amount of medical benefits provided to clients who were age 55 to 64 on the date the medical benefits were provided if the benefits were provided after July 18, 1995. Medical benefits will be considered to have been provided to a client on the day of provision of medical services for which medical assistance payments are made.

(4) The priority for payment of claims against the estate will be as established under ORS 115.125.

(5) EAU may nominate a personal representative for an estate if the Division has a claim and it appears that no person with a higher preference, as established in ORS 113.085, is willing to be the representative.

(6) Property disposal will be in accordance with OAR 461-135-0838.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.795

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96

461-135-0838

Administering Estate Claims

- (1) When the Division 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 Division'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 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009 & 414.032

Stats. Implemented: ORS 411.795

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91

461-135-0839

Title to Real and Personal Property

- (1) The Senior and Disabled Services 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 Division. The Division may convey the property by deed or other appropriate conveyance under procedures adopted by rule of the Division:
 - (a) The Division 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 Division Administrator of Senior and Disabled Services Division or his/her designee.
- (2) Recording responsibilities of the Deed will be the responsibility of the Grantee unless otherwise agreed upon by the Division.

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 Division 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 Division may consider the following criteria:

(a) Whether enforcement of the claim would cause the waiver applicant to become eligible for public or medical assistance; and

(b) Whether enforcement of the claim would cause the waiver applicant, who would otherwise be eligible for public 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 Division 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 Division 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 Division finds that the undue hardship will not be remedied by the grant of the waiver.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.795

Hist.: AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96

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**

(1) The Division 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 Division at the time the Division files its claim with the probate court. If the person handling the deceased client's estate is not known to the Division, the Division 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 Division asserting a right superior to that of the Division to receive property or other assets of the deceased client unless the Division 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 Division unless the Division 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 Division within 45 days of the date the notice was sent to the person or to the probate court. The Division 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 Division in determining whether an undue hardship exists.

(4) The Division may request additional information or documentation from the applicant. If the additional information or documentation is not provided within 30 days of the Division's request for additional information or documentation, the hardship waiver application will be considered by the Division on the basis of the information and documentation provided.

(5) Within 90 days of receipt of the hardship waiver application, the Division 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 Division's written decision shall include information regarding the applicant's right to a contested case hearing before a hearings officer employed by the Division.

(7) The rules and procedures adopted by the Division pursuant to OAR 411-001-0010(3) shall apply to hearings challenging the denial of a hardship waiver application.

(8) The issue for the hearing will be whether the Division's decision was correct based on the information available to the Division 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 Division 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 Division's pursuit of its estate recovery claim pending issuance of a final order at the conclusion of the hearing. The Division 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

461-135-0845

Valuation of Life Estate, Reversionary Interest and Property

(1) Effective July 18, 1995, a Life Estate or other Interest in Real or Personal Property or an Asset measured by or valued with respect to a life span (other than the life span of the relevant recipient of state assistance) shall be presumptively established by reference to the tables as set forth at 26 CFR 20.2031-7 in the Code of Federal Regulations and in effect on June 1, 1996, and shall be valued as of the Time of Death of the recipient of state assistance irrespective of actual life span of the measuring life. The value of a Life Estate owned by the relevant recipient of state assistance and measured by such recipient's life span shall be zero at the Time of Death of the recipient.

(2) The Interest of a Person in Real or Personal Property or an Asset held in Joint Tenancy or as Tenants in Common with Persons other than a spouse shall be presumed to be the value of the fractional share held by the Person. The fractional share of a Person shall be 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 shall be 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 shall be 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 shall be presumed to be the fractional share owned by each spouse. Such presumption may be rebutted by Convincing Evidence.

(4) The Value of Real Property may be established by the Recipient of Property by:

- (a) The most recent tax assessed value of the property prior to the Time of Death; OR
- (b) An appraisal performed by an appraiser certified or licensed in the applicable jurisdiction, whichever the department determines in its sole discretion most accurately reflects the Value of the Real Property; AND
- (c) Convincing Evidence of liens and other encumbrances against the Real Property which liens and encumbrances shall be subtracted from the applicable assessed or appraised value of the Real Property.

(5) The Value of Personal Property consisting of shares of stock or other securities traded on an exchange shall be 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 shall be subtracted from the value of such stock or securities established by the foregoing procedure.

(6) 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 shall be subtracted from the value of such property established by the foregoing procedure.

(7) The Value of intangible Personal Property not otherwise provided for herein, shall be 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 shall be subtracted from the value of such property established by the foregoing procedure.

(8) Notwithstanding anything to the contrary contained herein, 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 shall be 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.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.105

Hist.: AFS 29-1996, f. & cert. ef. 8-28-96

461-135-0850

Specific Requirements; Repatriate Program

(1) To be eligible for the Repatriate Program, a person must meet all 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 handicapped children;

(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 similar crises;

(c) Be without immediately available resources adequate to meet their needs.

(2) An eligible repatriate may receive aid under the Repatriate Program for 90 days from the date of arrival in the United States. An exception is if the repatriate is handicapped in attaining self-support or self-care for such reasons as age, disability, or lack of vocational preparation. In such cases, assistance may be extended for nine additional months with prior authorization from the Department of Health and Human Services.

(3) An individual who has received Repatriate benefits is required to repay all or part of the cost to the federal government (in accordance with their ability) unless any of the following is true:

(a) The probable recovery would be uneconomical or otherwise impractical;

(b) They do not have, and are not expected within a reasonable time to have, income and financial resources sufficient for more than ordinary needs;

(c) Recovery would be against equity and good conscience.

(4) Any claim the repatriate has against any individual, trust, estate, partnership, corporation, or government must be assigned to the federal government for repayment.

(5) Repatriate requests initiated at the branch office must be accompanied by the following information and verified by IMS:

(a) Case name and the names of any dependents;

(b) Port of entry;

(c) Last address in the United States. Current address, if any;

(d) Passport number and date issued. If a family is being repatriated and there is more than one passport, give the information for each person having a passport;

(e) Date of return to the United States;

(f) Country from which returned;

(g) Reason for return and how it was arranged.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-135-0875

Specific Requirements; Retroactive Medical

(1) All clients who are determined eligible for ADC-BAS, OSIPM, QMB-DW or REFM at the time of application are potentially eligible for retroactive medical benefits under these programs for up to three months preceding the date of request for benefits. Clients eligible for retroactive medical benefits may be eligible for all or any of the three months.

(2) CAWEM clients who do not currently have a qualifying medical condition are eligible for retroactive benefits if they meet both of the following:

(a) They would be eligible for ADC-BAS or OSIPM at the time of application if they met the citizen/alien status requirement; and

(b) They had a qualifying medical condition at some time during the three months preceding the date of request and would have been eligible for ADC-BAS or OSIPM if they met the citizen/alien status requirement.

(3) There are no retroactive medical benefits in GAM, OHP or QMB-BAS. Retroactive eligibility for QMB-BAS clients must be based on eligibility for ADC-BAS or OSIPM in the retroactive months.

(4) Clients may qualify under different medical programs in the three retroactive months.

(5) Eligibility for retroactive medical benefits may be established no earlier in the first month of the retroactive period than the day of the month that assistance was requested. For example, if the date of request is August 7 and retroactive medical eligibility is established, retroactive eligibility begins May 7, not May 1.

(6) Determine eligibility on a month-by-month basis according to the standards appropriate to each calendar month.

- (7) Consider all eligibility factors, except enumeration, cooperation with support enforcement and JOBS requirements in determining eligibility for retroactive medical benefits.
- (8) Clients eligible for OSIPM-MN do not have to meet spend-down in the current month to qualify for retroactive medical benefits. They must meet spend-down in the retroactive month to be eligible in that month.

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

461-135-0900

Specific Requirements; REF, REFM

This OAR applies to clients who meet refugee/asylee alien status per OAR 461-120-0120 and have been in the United States for less than 8 months. Count the month of entry into the United States as the first month.

- (1) The Refugee Case Services Program (RCSP) is a prior resource for refugees/asylees. RCSP is under contract with AFS to provide eligible refugees and asylees with cash benefits. Refugees who live in Clackamas, Multnomah and Washington counties are eligible for RCSP; they are not eligible for ADC or REF.
- (2) In the balance of the state, clients who meet alien status per OAR 461-120-0120 and have been in the United States for less than 8 months are eligible for REF and REFM.
- (3) REF and REFM clients who have been in the United States less than 12 months and live in Clackamas, Marion, Multnomah and Washington counties are included in the New Arrival Employment Service (NAES) area. NAES is a project under contract with the Division to provide eligible refugees and asylees with employment and social services.
- (4) Dependent children who are born in the United States are eligible for REF and REFM if they meet both of the following:
- (a) At least one of their biological parents is eligible for REF or REFM; and
 - (b) They live with the parent who is eligible for REF or REFM.
- (5) When refugees become naturalized United States citizens, they are no longer eligible for NAES, REF, or REFM assistance.
- (6) To be eligible for REF or REFM, refugees must tell the Division the name of their resettlement (or voluntary) agency. This does not apply to people granted asylum.

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 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

461-135-0910

Unaccompanied Minor Program; REF, REFM

Refugees who entered the United States under the Unaccompanied Minor Program are wards of the court, and are in the custody of a public agency. They are not eligible for any cash assistance program administered by the Division. However, they may be eligible for medical benefits through SCF.

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

461-135-0920

SSI for Refugees

- (1) Refer REF and REFM applicants who are age 65 or older or who are blind or disabled to SSA to apply for SSI. These clients will be assisted from refugee funds at ADC-BAS standards until SSI benefits begin, or until the eight-month REF/REFM eligibility period ends, whichever comes first.
- (2) When refugees are determined eligible for SSI, they are eligible for supplemental payments at OSIP standards and for OSIPM.
- (3) Clients cannot receive SSI and REF benefits for the same month. If SSA makes a retroactive SSI payment for the same month in which a REF payment was made, the SSI payment will be used to reimburse the Division for REF assistance. REF applicants who apply for SSI must sign an Agreement to Reimburse Refugee Assistance. This agreement authorizes the Division to recover REF payments from a retroactive SSI payment.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, Ch. 412, 413, 414, 416 & 418

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 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92

461-135-0930

Medical Coverage for Refugees; REFM

- (1) Clients are eligible for REFM if they are eligible for REF or would be eligible for REF except for income or resources.
- (2) Clients eligible for REFM benefits are eligible for the same medical coverage as the ADCM and OSIPM programs.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.710

Stats. Implemented: ORS 411.060 & 45 CFR 400.100

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

461-135-0950

Eligibility for People in Correctional Facilities

- (1) People living in correctional facilities are not eligible for benefits.
- (2) The following people are considered to be living in correctional facilities:
 - (a) People who are legally confined to a correctional facility such as jail, prison, penitentiary, or juvenile detention center;
 - (b) People temporarily released from a correctional facility to perform court-imposed community service work;
 - (c) People on short-term leave (less than 30 days) from a correctional facility;
 - (d) People released from a correctional facility for the sole purpose of obtaining medical care.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, 411.816, 414.042, Ch. 416 & 418

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

461-135-0960

Eligibility for People in State Psychiatric Institutions and Training Centers

- (1) People in state psychiatric institutions (Dammach State Hospital, Eastern Psychiatric Center, Oregon State Hospital) are eligible for ADCM or OSIPM benefits if they meet the age requirements as follows:
 - (a) Age 65 or older;
 - (b) Under age 21;
 - (c) Age 21, if the basis of need is disability or blindness and:
 - (A) Eligibility was determined before age 21; and
 - (B) They entered the institution before age 21.
- (2) There is no age limit for people in state training centers (Eastern Oregon Training Center, Fairview Training Center) to be eligible for ADCM or OSIPM.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.620, Ch. 414, 416 & 418

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

461-135-0990

Specific Requirements; Reimbursement of Cost-Effective, Employer-Sponsored Health Insurance Premiums

ADCM (except ADCM-EA), GAM, OHP, OSIPM (except OSIPM-MN with a spend-down), REF and REFM-BAS clients are reimbursed for their share of the cost of employer-sponsored health insurance premiums if all the following are true:

- (1) The insurance is provided through a member of the household group.
- (2) The insurance covers a member of the benefit group.
- (3) The insurance coverage is a comprehensive plan (i.e., includes basic/major medical services), or is a Fully Capitated Health Plan (FCHP) or Physicians Care Organization (PCO).
- (4) The premium is determined to be cost-effective per OAR 461-155-0360.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-135-1070

Specific Requirements; Citizen/Alien-Waived Emergent Medical (CAWEM)

To be eligible for CAWEM, a client must be ineligible for ADC-BAS, OHP or OSIPM solely because they do not meet the citizen/alien requirements. In addition, they must meet one of the following:

- (1) The client requires immediate medical treatment due to the sudden onset of a medical condition and the absence of medical treatment could reasonably be expected to result in any of the following:
 - (a) Placing the client's health in serious jeopardy;
 - (b) Serious impairment to bodily functions;
 - (c) Serious dysfunction of any bodily organ or part.
- (2) The client requires medical benefits for childbirth (labor and delivery).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 2-1994, f. & cert. ef. 2-1-94

461-135-1100

Specific Requirements; OHP

- (1) To be eligible for OHP, a person must:
 - (a) Not be receiving, or deemed to be receiving, SSI benefits.

- (b) Be ineligible for Medicare.
 - (c) Not be receiving Medicaid through another program.
 - (d) Not be a full-time higher education student per OAR 461-135-1110.
 - (e) Pay a monthly premium if required under OAR 461-135-1120.
- (2) A person who was born before October 1, 1983, and is not pregnant is referred to as Health Plan New/Noncategorical (HPN). In addition to all other OHP eligibility requirements, an HPN must meet all the following:
- (a) Resource limit per OAR 461-160-0010.
 - (b) Payment of premiums per OAR 461-155-0235.
 - (c) Selection of a Managed Health Care Plan (MHCP) or Primary Care Case Manager (PCCM) if available, unless they are exempt per OAR 410-141-0060.
- (3) Assumed eligibility for pregnant females is as follows:
- (a) If a pregnant female is determined eligible for OHP, she is continuously eligible until the last day of the month in which the 60th day following the end of pregnancy falls. Changes in the benefit group's income, resources or living situation do not affect her eligibility for OHP during this period.
 - (b) A pregnant female who was receiving ADCM, GAM or OSIPM and became ineligible during the pregnancy is assumed eligible for OHP.
- (4) A child born to an OHP-eligible mother is assumed eligible for OHP until the child becomes one year old, as long as the child continuously lives with the mother.
- (5) OHP children who have a birthday and no longer meet the age requirement while receiving in-patient medical services are eligible until the end of the month in which they no longer receive those services, if both the following are true:
- (a) They are receiving in-patient services on the last day of the month in which they no longer meet the age requirement.
 - (b) In-patient services continue into the following month(s).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.025(2)(u)

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; 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 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-135-1110

Eligible and Ineligible Students; OHP

- (1) A person who is enrolled full time in higher education is ineligible to receive OHP benefits, unless either of the following is true:
- (a) The student is pregnant. A pregnant female is eligible until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls;

(b) The student is in a program serving displaced workers per Section 236 of the Trade Act of 1974.

(2) For the purposes of this rule, higher education includes the following:

(a) All public and private universities, state colleges and community colleges. However, ABE, ESL, GED and high school equivalency programs at these institutions are not considered higher education. *Full-time status* at these schools is:

(A) For undergraduates, enrollment of 12 or more credit hours per term or semester;

(B) For graduates, enrollment of 9 or more credit hours per term or semester.

(b) All post-secondary vocational or technical schools that normally require a high school diploma or equivalency certificate for enrollment in the institution or in a particular program at the institution. However, programs at these institutions that do not require a diploma or certificate are not considered higher education. *Full-time status* at these schools is attending classes and other required activities at least 12 hours per week.

(3) A student's enrollment status continues during school vacation and breaks. A student's enrollment status ends when the student graduates, drops out (as verified by their disenrolling), is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95

461-135-1120

Premium Requirement; OHP

For OHP, payment of a monthly premium is required when the filing group includes one or more non-exempt Health Plan New/Noncategorical (HPN) persons per OAR 461-135-1100.

(1) Premium requirements apply only to non-exempt HPN persons. The following HPNs are exempt from the premium requirement:

(a) Native Americans who have proof of their Indian heritage.

(b) Persons in long-term care (including nursing facilities and community-based services).

(c) Children placed by SCF in the homes of their relatives (Kinship Care).

(d) Ongoing OHP clients who are participating in the Assessment Program on the first day of the month are exempt from premiums for that month.

(2) The amount of the premium is determined per OAR 461-155-0235.

(3) The person responsible for payment of the premiums is determined in the following order:

(a) The payee if they are medically eligible; or

(b) A medically eligible adult; or

- (c) A non-medically eligible payee.
- (4) Once the amount of the premium is established, the amount will not change during the certification period unless:
 - (a) An HPN becomes pregnant.
 - (b) A pregnant female becomes an HPN following the end of her assumed eligibility period per OAR 461-135-1100.
 - (c) An HPN becomes eligible for another program (e.g., ADC, GA or OSIP).
 - (d) An HPN leaves the filing group.
 - (e) OHP cases are combined during their certification periods.
 - (f) An HPN's exemption status changes.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.025(2)(u)

Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97

461-135-1130

Disqualification for Nonpayment of OHP Premium

- (1) Using information supplied by their contractor, OMAP determines when a person responsible for paying a premium per OAR 461-135-1120 has an arrearage due to an unpaid premium.
- (2) When a filing group includes a person with a premium arrearage, that person is disqualified and all the non-exempt HPNs in the filing group are ineligible from receiving OHP until the premium arrearage is paid or the disqualification is waived per section (4) of this OAR.
- (3) A disqualification is applied:
 - (a) At the beginning of a certification period; or
 - (b) When it is determined during a certification period that a person should have been disqualified at the beginning of the period (i.e., bounced check), that person and all the HPNs in the filing group are ineligible at the end of the month following the end of their notice period.
- (4) No disqualification is applied if the applicant is otherwise eligible and either of the following is true:
 - (a) The financial group's average countable income for the budget month of a new certification period is \$0.
 - (b) One of the following occurred during the certification period in which the arrearage occurred or in the current budget month:
 - (A) A member of the filing group was the victim of a crime resulting in the loss of income or resources.
 - (B) A member of the filing group was the victim of domestic violence.
 - (C) The filing group was the victim of a natural disaster.
 - (D) A member of the filing group died.

(E) The filing group was homeless or lost their housing.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.025(2)(u)

Hist.: AFS 36-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 10-1996, f. 3-27-96, cert. ef. 4-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-135-1200

Domestic Violence; Defined

(1) *Domestic violence* is the occurrence of one or more of the following acts 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 Chapter 163 of the Oregon Revised Statutes.
- (d) Using coercive or controlling behavior.

(2) Waive or modify ADC eligibility requirements, except the following, if those requirements make it more difficult for individuals to escape domestic violence or place them at risk of further, future violence. These waivers and modifications are intended to be temporary, and to help victims of domestic violence to move forward with their self-sufficiency and to meet program requirements when safe.

(a) Do not waive the requirement to be a parent, caretaker relative or dependent child per OAR 461-135-0070(1) or to live with a caretaker relative per OAR 461-120-0630. This requirement may be modified if the caretaker is fleeing a violent situation and must temporarily leave the children. Give the caretaker a reasonable period of time to regain physical custody of the children.

(b) Do not the waive the income or resource limit. However:

(A) Consider income as unavailable to the victim if it is controlled by their abuser.

(B) Treat resources as follows:

(i) Consider resources that are jointly shared with the abuser as unavailable to the victim of domestic violence if pursuing them would put the person at further risk.

(ii) Exclude resources being used by the victim to flee the abusive situation (e.g., money needed to move into stable housing).

(c) Do not require domestic violence victims to participate in specific JOBS and other activities that could jeopardize their safety or the safety of their children.

(3) When domestic violence victims do not cooperate with assigned JOBS activities, they are not eligible for the ADC cooperation incentive. In addition, apply disqualifications as follows:

(a) If the caretaker relative meets the citizen/alien status requirement, apply JOBS disqualifications per OAR 461-130-0260.

- (b) If the caretaker relative receives ADC benefits because the alien status requirement is waived:
- (A) For the first two months of noncooperation, reduce the payment standard by \$50.
- (B) For the third and subsequent months of noncooperation, remove all ineligible aliens from the ADC need group.

Stat. Auth.: ORS 411.060, 418.040 & 418.100

Stats. Implemented: ORS 411.060, 418.040 & 418.100

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 140

FINANCIAL ELIGIBILITY

461-140-0010

Assets; Overview

For all programs, treat assets as follows unless otherwise specified in other administrative rule(s):

- (1) An available asset is either counted as income, counted as a resource, or excluded in any given budget month. "Excluded" means an asset is not counted as either income or as a resource. Unearned income, earned income and resources are assets. When determining financial eligibility, count all assets not specifically excluded.
- (2) Assets not available (per OAR 461-140-0020 and 461-140-0040) do not affect a benefit group's eligibility or benefit level.
- (3) An asset that is counted as income is excluded as a resource in that budget month. Count any remaining amounts as a resource the following month.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0020

Determining Availability of Resources

- (1) A resource is available if the client has a legal interest in the resource and has the legal ability to do one of the following:
 - (a) Sell the resource to convert it to cash (for example, selling stocks, bonds or property);
 - (b) Use a cash resource for support and maintenance;

(c) Use a resource that can be converted to cash without selling it (for example, accessing a trust fund, an insurance settlement, or an IRA).

(2) If a resource is available per section (1) of this rule, but the client states it is not available, the client has the burden to prove it is not available.

(3) For jointly owned resources:

(a) For all programs except FS, only the portion of jointly owned resources that can be legally attributed to a financial group is available;

(b) For FS, jointly owned resources are available in their entirety to each owner, unless the client proves the resource is not available.

(4) A resource is not available if any of the following is true:

(a) The client has a legal interest in the resource, but it is unavailable because it is not in the client's possession. (For example, a client has title to a car, but the car is stolen; the resource is not available);

(b) The resource is jointly owned with others not in the financial group, who are unwilling to sell, and the client's interest is not reasonably saleable;

(c) The client is incompetent and there is no legal representative to act on behalf of the client. The client's condition must be verified by a doctor or other authorized person on the form designated by the Division;

(d) The client lives in a home for battered women and children and the resource is jointly owned with a person who lives in the household the client left;

(e) The resource is an irrevocable or restricted trust and cannot be used to meet the basic monthly needs of the financial group.

(f) Additionally for FS, if selling a resource other than a motor vehicle would produce insignificant return for the filing group's support. Insignificant return exists when a filing group will have a net gain of less than half of their group's resource limit by selling the resource.

(5) A resource is considered unavailable to the owner if the owner does not know they own the resource. Once the owner is informed that they own the resource, the resource is considered available. The client has the burden to prove they did not know they owned the resource.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060, PL 102-237, section 904; Admin Notice 92-12

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

461-140-0040

Determining Availability of Income

Income is available immediately upon receipt, or when the client has a legal interest in the income and the legal ability to make the income available, except in the following situations when it is considered available as indicated:

(1) For earned and unearned income:

(a) Consider the income available prior to any deductions such as garnishments, taxes, payroll deductions, or voluntary payroll deductions (IRAs, KEOGHs, etc.).

(b) If the income is usually paid monthly or twice monthly on the first or last day of the month, but is paid early or late because the regular payday falls on a holiday or weekend, it is still considered to be paid on the regular payday.

(2) Earned income is available as follows:

(a) Income withheld or diverted at the request of an employee is considered available in the month the wages would have been paid.

(b) An advance or draw is money received that will be subtracted from later wages. An advance or draw is available when received.

(3) The following income is available throughout the period for which the calculation applies:

(a) Averaged income.

(b) Annualized income.

(c) Converted income.

(d) Prorated income.

(4) Deemed income is available whether or not it has been received.

(5) Payments that should legally be made directly to a member of the financial group, but are paid to a third party for a household expense, are considered available to the financial group when the third party receives the payment.

(6) For GA, GAM, OSIP, OSIPM and QMB, an overpayment amount recovered from any benefit is considered available.

(7) For FS, an overpayment recovery amount withheld from ADC or SSI benefits is available only if the overpayment was the result of an Intentional Program Violation (IPV) or fraud.

(8) Income is not available if:

(a) The income is an amount withheld from a benefit to recover an overpayment, except the available income described in sections (6) and (7) of this OAR.

(b) The wages are withheld by an employer as a general practice, even if in violation of the law.

(c) The income is paid jointly to the client and other people and the others do not pay the client their share.

(d) The income is received by a member of the financial group after they have left the household. Count only the income the person received while they were residing in the household.

(e) Additionally for FS, the income is received by the financial group but is intended and used for the care of someone not in the financial group.

(A) If the income is intended both for someone in the financial group and someone not in the financial group, the portion of the income intended for the care of the person not in the financial group is considered unavailable.

(B) If the portion intended for the care of the person not in the financial group cannot readily be identified, prorate the income evenly among the people the income is intended for. The prorated share intended for the care of the person not

in the financial group is then considered unavailable.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-140-0050

Determining the Value of a Resource

The value of a resource is:

(1) One of the following for non-cash resources, depending on the specific type of resource:

(a) The equity of noncash resources (fair market value minus encumbrances), commonly referred to as cash value;

(b) Fair market value. Fair market value is the amount the item is worth on the open market;

(c) Face value of a life insurance policy. Face value is the amount the beneficiary will receive upon the death of the insured.

(2) The value of cash.

(3) Use the following guidelines to evaluate the fair market value of automobiles, trucks and vans:

(a) Use the "Average Trade-In Value" of the National Automobile Dealers Association's (NADA) Used Car Guide or similar publication. Do not add handicapped apparatus, optional equipment, or low mileage to increase the value;

(b) If the client claims the publication value does not apply to their vehicle, use statements from car dealers, mechanics, or other reliable sources to substantiate the value;

(c) If the vehicle is not listed in the book, accept the client's estimate of the value. If the estimate appears incorrect, additional verification may be required.

(4) The fair market value of real property is:

(a) The true cash value from tax statements; or

(b) A lesser value, if the client can substantiate the lesser value through a real estate appraisal.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0070

Treatment of Excluded Assets

- (1) Exclude cash and money in bank accounts (except Earned Income Credit for FS) if:
 - (a) The money is from an excluded payment; and
 - (b) It is kept separate from counted resources. If it is not separate, exclude it for six months from the date it is combined.
- (2) If the excluded cash is converted into a noncash resource, treat it according to the policy for the item.
- (3) For FS, exclude proceeds from an Earned Income Credit (EIC) for up to 12 months from receipt if:
 - (a) The EIC was received while the client was receiving FS benefits; and
 - (b) The client continuously receives FS during the 12 months.

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 29-1994, f. 12-29-94, cert. ef. 1-1-95

461-140-0100

Determining Periodic or Lump-Sum Income

- (1) Income received on a regular basis (but not monthly) such as quarterly, semiannually, annually or as a contract employee is called periodic income.
- (2) Income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment, is called lump-sum income. This includes, but is not limited to:
 - (a) Income from retroactive monthly or periodic benefits accumulated over more than one month and received in a single payment.
 - (b) Income from inheritance, gifts, winnings and personal injury settlements.
 - (c) Social Security benefits and SSI retroactive payments back to the date of application, even when the payment is made in monthly installments.
- (3) Income that can be received in a lump-sum is considered lump-sum income even when the client chooses to receive it in monthly installments.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-140-0110

Periodic Income

Treat periodic income received on a regular basis as follows:

- (1) For ADC-BAS and FS clients in a filing group that includes at least one member who is working under a JOBS Plus agreement, exclude periodic income.
- (2) For ERDC, annualize periodic income. Depending on the source, count it either as earned or unearned.
- (3) For FS clients not covered under section (1) of this OAR, annualize periodic income unless it is contract income that is not the client's annual income and is not paid hourly or by piecework. Prorate this contract income over the period it is intended to cover. Depending on the source, count periodic income as either earned or unearned.
- (4) For all other clients, count as income in the month received. Depending on the source, count it either as earned or unearned.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-140-0120

Lump-Sum Income

- (1) This OAR applies to the following:
 - (a) Any recipient who has received lump-sum income.
 - (b) Applicants who receive lump-sum income after they have signed the application for program benefits.
- (2) For ADC-BAS, ADCM-BAS, REF and REFM, treat lump-sum income as a resource.
- (3) For ADC-EA and ADCM-EA, count lump-sum income as a resource.
- (4) For ADCM-EXT and ERDC, exclude lump-sum income.
- (5) For ADCM-SAC and OHP, treat lump-sum income as follows:
 - (a) If the lump-sum income is \$30 or less, exclude it. This exclusion is allowed once per calendar quarter for:
 - (A) Each financial group member who receives the lump-sum income; and
 - (B) Each financial group member the lump-sum income is intended for.
 - (b) If the lump-sum income is over \$30, count the entire amount as unearned income only in the month received.
 - (c) For lump-sum income that put the financial group over income limits while on ADC-BAS, count the prorated monthly income as unearned income for OHP during the ADC-BAS ineligibility period.
- (6) For FS:
 - (a) If the lump-sum income is \$30 or less, exclude it. This exclusion is allowed once per calendar quarter for each financial group.
 - (b) If the lump-sum income is over \$30, count the entire amount as a resource.

(c) For FS clients in a filing group that includes at least one member who is working under a JOBS Plus agreement, exclude lump-sum income.

(7) For GA and GAM, count the first \$50 of lump-sum income as a resource. Count any amount that puts the financial group over the resource limit as unearned income. If the lump-sum income puts the client over the income limit, compute an ineligibility period.

(8) For OSIP, OSIPM, and QMB, treat lump-sum income as follows:

(a) For non-grandfathered clients, exclude lump-sum income up to \$20 per month per financial group. At the client's option, also exclude any amount the client turns over to the Division for reimbursement of previous assistance. Count any remaining lump-sum income as unearned income in the month of receipt and any amount remaining in future months as a resource; or

(b) For grandfathered clients, count the lump-sum income as a resource in the month of receipt. If this causes the client to have excess resources, exclude the following amounts:

(A) The amount needed to purchase, with official approval, necessary special need items within Division standards.

(B) At the client's option, any amount the client turns over to the Division for reimbursement of previous assistance.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-140-0123

Availability/Unavailability of Lump-Sum Income; ADC-BAS, ADCM-BAS, REF

(1) Consider lump-sum income available to the financial group when a member of the group receives the income unless it becomes unavailable for reasons beyond their control per section (2) of this rule.

(2) Consider the lump-sum income unavailable for reasons beyond the client's control when the member who received the lump-sum income:

(a) Leaves the financial group before spending any of the lump-sum income; or

(b) Spends the lump-sum payment on an unexpected emergency, such as a natural disaster or serious injury or death of a household member.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1994, f. & cert. ef. 7-1-94

461-140-0125

Lump-Sum Ineligibility Period; GA, GAM

For GA and GAM:

- (1) The lump-sum ineligibility period is the months in which the financial group is ineligible for benefits due to the receipt of lump-sum income. The ineligibility period applies to each member of the financial group even if they leave the ineligible group and apply for benefits with another filing group.
- (2) For prospective budgeting, an administrative overpayment occurs in the month in which the financial group received a lump sum that resulted in a period of ineligibility, regardless of when the income is reported.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1994, f. & cert. ef. 7-1-94; 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 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-140-0130

Calculating/Recalculating the Lump-Sum Ineligibility Period

- (1) For ADC-BAS and ADCM-BAS Oregon Option control-group clients, GA and GAM, use the following formula to determine the financial group's ineligibility period due to receipt of lumpsum income:
 - (a) Add the countable lump-sum income to the other countable income received by the financial group in the budget month, minus allowable deductions.
 - (b) Divide the total by the appropriate Payment Standard for the number of people who are in the need group in the month the lump-sum income is received. The result is the number of months the financial group is ineligible for benefits.
 - (c) Count any remaining income that is less than a full month's need in the month after the client's ineligibility ends. For example, if the countable lump-sum income equals four months Payment Standard plus \$90, count the \$90 in the fifth month.
- (2) If lump-sum income becomes unavailable for reasons beyond the client's control per OAR 461-140-0123, recalculate the period of ineligibility as follows:
 - (a) Subtract the amount of lump sum that became unavailable for reasons beyond the client's control from the total lump sum.
 - (b) Add the remaining lump-sum income to the other countable income received by the financial group in the budget month, minus allowable deductions.
 - (c) Divide the remaining lump-sum income by the appropriate Payment Standard for the number of people who are in the need group in the month the client notifies the Division of the change in circumstances. The result is the number of months the financial group is ineligible for benefits.
 - (d) Count any remaining income that is less than a full month's need in the month after the client's ineligibility ends. For example, if the countable lump-sum income equals four months' Payment Standard plus \$90, count the \$90 in the fifth month.

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 2-1992, f. 1-30-92, cert. ef. 2-1-92; 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 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96

461-140-0140

Criteria for Recalculating Lump-Sum Ineligibility Period

For GA and GAM, the lump-sum ineligibility period can be recalculated when any of the following occurs during the ineligibility period:

- (1) There is a cost-of-living increase in the standard for the need group size.
- (2) A new person is added to the filing group and they:
 - (a) Meet all eligibility requirements; and
 - (b) Are required to be in the need group.
- (3) Special needs are approved.
- (4) Money from the sale of an excluded resource is reinvested in another excluded resource.
- (5) A personal injury settlement is used to pay expenses related to the settlement, including attorney's fees and medical costs.
- (6) The lump-sum income becomes unavailable for reasons beyond the client's control, per OAR 461-140-0123.
- (7) The financial group incurs legal fees for settlement of the lump sum.

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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; 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 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-140-0150

Lump-Sum Income Not Reported or Not Acted on by the Division

- (1) For GA and GAM cases subject to a lump-sum ineligibility period, do the following when lump-sum income is not reported within specified time frames (OAR 461-170-0010) or is reported but the Division fails to act:
 - (a) Calculate the period of ineligibility.
 - (b) Close the case for the remaining period of ineligibility.
- (2) For all cases, compute an overpayment for the period of time that the client received benefits, but was ineligible.

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 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

461-140-0210

Resource Transfer; General Information

(1) For all programs except ERDC and OHP, financial group members who transfer a resource must do all the following in order to be eligible for benefits:

- (a) Report any transfer of resources for all members of the financial group at application, redetermination and when the transfer occurs;
- (b) Provide documentation of the terms of the sale or disposal of the resources;
- (c) Provide evidence that the transfer was valid.

(2) For all programs except ERDC and OHP, the Division must evaluate resource transfers at application and redetermination to determine if they are valid within the following time limits:

- (a) For ADC, ADCM, REF and REFM, within the preceding three years;
- (b) For FS, within the preceding three months;
- (c) For GA, GAM, OSIP, OSIPM and QMB:
 - (A) Within the preceding 24 months for clients who transferred property before July 1, 1988;
 - (B) Within the preceding 30 months for clients who transferred property on or after July 1, 1988, and before October 1, 1993;
 - (C) Within the preceding 36 months for assets transferred on or after October 1, 1993;
 - (D) Within the preceding 60 months for assets treated as transferred without compensation (per section (8) and subsections (9)(b) and (c) of OAR 461-145-0540) from a trust established on or after October 1, 1993.

(3) For all programs except ERDC and OHP, a financial group member is disqualified, and their financial group is ineligible for benefits, if the person makes an invalid transfer of resources.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.632, OBRA '93

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

461-140-0220

Determining If a Transfer of Resources is Valid

- (1) A valid resource transfer exists when any of the following is true:
 - (a) The transferred item was an excluded resource or personal property, such as jewelry or furniture, and the financial group resource total was less than allowable limits at the time of the transfer;
 - (b) The resource was sold or traded:
 - (A) For all programs except FS, for compensation equal to or greater than fair market value;
 - (B) For FS, for compensation near, equal to or greater than fair market value.
 - (c) The resource was transferred between members of the same financial group, including members who are ineligible aliens or disqualified people;
 - (d) The transfer settled a legally enforceable claim against the resource or client;
 - (e) A court ordered the transfer;
 - (f) The client was a victim of fraud, misrepresentation, or coercion and legal steps have been taken to recover the resource;.
 - (g) The resource is an annuitized annuity for the benefit of the client or the client's spouse where the entire amount of principal and earned interest is paid over the life expectancy or less of the person receiving the monthly payments.
- (2) A questionable transfer may be determined valid if the client proves that the transfer was not intended to establish eligibility for benefits. To prove this, clients must provide convincing evidence of one of the following:
 - (a) Good faith efforts to sell the resource at fair market value;
 - (b) Good faith efforts to transfer the resource in exchange for real property, goods or services in any combination equivalent to the resource's fair market value;
 - (c) The resource was transferred exclusively for a purpose other than to qualify for benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.710

Stats. Implemented: ORS 411.632

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

461-140-0230

Valid Transfer of Home Before July 1, 1988; Client in Long-Term Care

For GA, GAM, OSIP, OSIPM or QMB, the transfer of a home by a person in long-term care before July 1, 1988, is a valid transfer if there is convincing evidence of any of the following:

- (1) They can be expected to return to the home after leaving long-term care.
- (2) Title to the home was transferred to the client's:
 - (a) Spouse; or
 - (b) Child who is under age 21, blind, or permanently and totally disabled as defined by SSI criteria.

(3) They intended to dispose of the home at fair market value.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0240

Valid Transfer of Resources Including Home; July 1, 1988 Through September 30, 1993

For GA, GAM, OSIP, OSIPM and QMB:

(1) The transfer of resources (including a home) by a client or the client's community spouse from July 1, 1988 through September 30, 1993, is a valid transfer if there is convincing evidence that the transfer was made exclusively for purposes other than qualifying for benefits, or that the title to such resource was transferred to the person's:

(a) Spouse, or to another person for the sole benefit of the spouse; or

(b) Child who is blind or is permanently and totally disabled as defined by SSI criteria.

(2) Additionally, the transfer of a home from July 1, 1988 through September 30, 1993, is valid if there is convincing evidence that the title was transferred to the person's:

(a) Child under age 21;

(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; or

(c) Son or daughter who was residing in the home for at least two years immediately before the client's admission to long-term care and who provided care to the client that permitted the client to reside at home rather than in long-term care.

Stat. Auth.: ORS 411.060, 411.632 & OBRA 1993

Stats. Implemented: ORS 411.632, OBRA '93

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 29-1993, f. 12-30-93, cert. ef. 1-1-94

461-140-0242

Valid Transfer of Resources Including Home; On or After October 1, 1993

For GA, GAM, OSIP, OSIPM and QMB:

(1) The transfer of resources (including a home) by a client or the client's community spouse on or after October 1, 1993, is a valid transfer if there is convincing evidence that the transfer was made exclusively for purposes other than qualifying for benefits, or that the title to such resources was transferred:

(a) To the person's spouse or to another for the sole benefit of the client's spouse; or

(b) To a trust described in OAR 461-145-0540(10); or

(c) To or for the sole benefit of the client's disabled child.

(2) Additionally, the transfer of a home after October 1, 1993, is valid if there is convincing evidence that the title was transferred to the person's:

(a) Child under age 21; or

(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; or

(c) Son or daughter who was residing in the home and who provided care for the client for at least two consecutive years immediately before the date the client became institutionalized or during the time waived services were required or would have been required if the son or daughter had not been providing care.

(3) The transfer of resources (including a home) by a client or the client's community spouse on or after April 1, 1995, is a valid transfer if there is convincing evidence that:

(a) The transfer was made exclusively for purposes other than qualifying for benefits; or

(b) The title to such resources was transferred to the person's spouse, blind or disabled child; or

(c) To another for the sole benefit of the spouse, blind or disabled child; provided the transfer is arranged in such a way that no individual or entity except the spouse, blind or disabled child can benefit from the resources 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, blind or disabled child 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 on a basis which is based on the life expectancy of the individual. When this condition is not present, a transfer penalty will be imposed.

(4) The only exception to the requirements in subsection (3)(c) of this rule would be if the remaining funds in the trust are made payable to:

(a) The state, upon the death of the beneficiary and disbursements from the trust are not made to any person other than the spouse, blind or disabled child until the state's claim is satisfied; or

(b) To a trust described in OAR 461-145-0540(10).

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.710

Stats. Implemented: ORS 411.632, OBRA '93

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

461-140-0250

Determining the Value of Compensation for a Transferred Resource

(1) Use the uncompensated value of a disqualifying transfer of resources to determine the ineligibility period.

(2) To determine the uncompensated value:

- (a) Determine the fair market value of the resource and subtract the amount of compensation received;
- (b) Add the amount from subsection (a) of this section to other countable resources;
- (c) The amount from subsection (b) of this section that is over the resource limit is the uncompensated value.
- (3) The amount of compensation for a transferred resource includes the following:
 - (a) Encumbrances assumed by the buyer or paid from the proceeds of the sale;
 - (b) Goods or services provided to the client are considered compensation if:
 - (A) The value of goods, care or services equals the customary rates for such care in the community; and
 - (B) There was an agreement to purchase the resource by provision of goods or services.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0260

Disqualification Due to a Resource Transfer; FS

- (1) For FS, financial groups in which a member is disqualified due to the transfer of a resource are disqualified from receiving benefits for up to one year.
- (2) The disqualification period starts the date the branch office imposes the disqualification by closing or denying benefits.
- (3) Use the following chart to determine the disqualification period:

**Amount of Period of
Uncompensated Value Disqualification**

\$0.00 - 249.99	1 month
\$250.00 - 999.99	3 months
\$1,000.00 - 2,999.99	6 months
\$3,000.00 - 4,999.99	9 months
\$5,000.00 or more	12 months

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.111, 411.630, 411.730, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.632

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

461-140-0270

Disqualification Due to a Resource Transfer; ADC, ADCM, REF, REFM

- (1) ADC, ADCM, REF and REFM financial groups in which a member is disqualified due to the transfer of a resource are disqualified for as many months at the ADC standard as it takes to equal the uncompensated value.
- (2) The disqualification period starts the date the branch office imposes the disqualification by closing or denying benefits.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0280

Disqualification Due to Resource Transfer Before July 1, 1988

GA, GAM, OSIP, OSIPM and QMB financial groups in which a member is disqualified due to the transfer of a resource before July 1, 1988, are disqualified from receiving benefits for the following time periods:

- (1) For GA and GAM clients in long-term care who are disqualified due to the transfer of a home, the disqualification period:
 - (a) Begins the month the home was disposed of;
 - (b) Continues 24 months if the uncompensated value is less than \$12,000; or
 - (c) Continues as many full months as equals the uncompensated value divided by \$500, if the uncompensated value is \$12,000 or more.
- (2) For OSIPM and QMB clients in long-term care who have adjusted income above the SSI standard for an individual in long-term care and are disqualified due to the transfer of a home, the disqualification period:
 - (a) Begins the month the home was disposed of; and
 - (b) Continues for as many full months as equals the uncompensated value divided by \$1,350.
- (3) For all other financial groups in which a member is disqualified due to the transfer of a resource, and for institutionalized clients who are disqualified due to the transfer of a resource other than a home, determine the disqualification period as follows:
 - (a) For GA and GAM clients, the period begins the month the resource was disposed of and is:
 - (A) For 24 months, if the uncompensated value is less than \$12,000; or
 - (B) For as many full months as equals the uncompensated value divided by \$500, if the uncompensated value is \$12,000

or more.

(b) For OSIP, OSIPM and QMB clients, the period begins the month the resource was disposed of and is:

(A) For 24 months, if the uncompensated value is less than \$24,000; or

(B) For as many full months as equals the uncompensated value divided by \$1,000, if the uncompensated value is \$24,000 or more.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0290

Disqualification Due to a Resource Transfer; July 1, 1988 Through September 30, 1993

(1) GA, GAM, OSIP, OSIPM and QMB financial groups in which a member is disqualified due to the transfer of a resource July 1, 1988 through September 30, 1993, are disqualified from receiving benefits.

(2) The disqualification period begins the month the resource was disposed and continues for the lesser of:

(a) Thirty months;

(b) For clients in long-term care, the total number of months equal to the uncompensated value divided by \$2,595, rounded down to the nearest full month.

(c) For clients in the community applying for or receiving OSIP, OSIPM, or QMB the total number of months equal to the uncompensated value divided by \$2,595, rounded down to the nearest full month.

(d) For people in the community applying for or receiving GA, the total number of months equal to the uncompensated value divided by \$500, rounded down to the nearest full month.

Stat. Auth.: ORS 411.632 & OBRA 1993

Stats. Implemented: ORS 411.632, OBRA '93

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95

461-140-0295

Disqualification Due to a Resource Transfer; On or After October 1, 1993

(1) GA, GAM, OSIP, OSIPM and QMB financial groups in which a member is disqualified due to the transfer of a resource on or after October 1, 1993, are disqualified from receiving benefits for a period of time.

(2) The disqualification period is as follows:

(a) For a nursing facility client:

- (A) The disqualification begins the first day of the first month in which the transfer occurs;
- (B) The disqualification period is the number of months equal to the uncompensated value divided by \$2,595, rounded down to the nearest full month. The uncompensated value is the total cumulative sum of all non-exempt resources transferred by the client or their spouse.
- (b) For those who are living in the community and are applying for OSIP, OSIPM or QMB:
 - (A) The disqualification begins the first day of the first month in which the transfer occurs;
 - (B) The disqualification period is the number of months equal to the uncompensated value divided by \$2,595, rounded down to the nearest full month. The uncompensated value is the total cumulative sum of all non-exempt resources transferred by the client or their spouse.
- (3) If a resource is owned by more than one person, by joint tenancy, tenancy in common or similar arrangement, the share of resource owned by the client shall be 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 resource.
- (4) For annuities purchased where benefits are paid beyond the life expectancy of the client, as determined by the annuity, a disqualification period will be assessed for the value of the annuity beyond the life expectancy of the annuitant.

Stat. Auth.: ORS 411.632 & OBRA 1993

Stats. Implemented: ORS 411.632, OBRA '93

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 10-1995, f. 3-30-95, cert. ef. 4-1-95

461-140-0300

Ending the Disqualification for Resource Transfer

Financial groups disqualified for transferring resources remain disqualified until one of the following occurs:

- (1) The disqualification period ends.
- (2) For all programs except FS:
 - (a) Full equity and rights in the resource are transferred back to the client; or
 - (b) The client receives adequate compensation.
- (3) Additionally for GA, GAM, OSIP, OSIPM and QMB, the branch office may end the disqualification if clients are in extreme need and denying benefits would create an undue hardship.

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.111, 411.630, 411.730, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.632

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

461-140-0410

Criteria for Developing a Plan for Self-Support

(1) A plan for self-support may be developed for GA, GAM, OSIP, OSIPM and QMB clients who fulfill the following criteria:

- (a) Meet unemployability, disability or blindness criteria; and
- (b) Are not eligible forSSI.

(2) If the plan is part of a VRD-administered rehabilitation plan, ask VRD to report any change in the plan directly to the worker. VRD may also report changes on behalf of the client.

(3) A plan for self-support allows clients to retain a portion of their non-excluded assets for a specific period of time to meet a specific occupational goal. To be approved, a plan for self-support must meet the following criteria:

- (a) The plan is in writing and approved by the branch office;
- (b) It identifies an occupational objective under the following guidelines:
 - (A) A realistic occupational goal, considering the client's physical impairment;
 - (B) The plan may provide for specialized or advanced education or training for severely disabled clients requiring more income;
 - (C) The goal must be to provide clients with income necessary to meet their needs, not just for improving potential earning capability or increasing self-sufficiency within the home.
- (c)It has a specificsavings or planned disbursement goal for using the excluded assets;
- (d) The plan is limited to the amount of time necessary to complete the plan, but cannot exceed:
 - (A) Thirty-six months; and
 - (B) An additional 12 months for completion of education or training.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0420

Treatment of Assets Under a Plan for Self-Support

Treat assets used in an approved plan for self-support as follows:

- (1) For FS, exclude assets used in an approved plan for self-support.
- (2) For all programs except FS, if assets are identified to meet a specific cost directly related to the occupational goal:
 - (a) Exclude savings identified to meet costs such as purchase of equipment for a trade or business, transportation, books and maintenance costs at school;
 - (b) Allow an income deduction for the amount identified to meet allowable costs, including:

- (A) Room and board, and other maintenance requirements, if the client must be away from home to attain the designated goal; and
- (B) Above normal expenses, if the client remains at home but must buy meals or incur other known expenses while away from home during the day.

(3) For all programs except FS, if assets are segregated from other resources:

- (a) Funds designated for a specific savings goal in a plan for self-support must be kept in a separate bank account;
- (b) Previously commingled funds must be put in separate bank accounts. The client must supply verification that the funds are not commingled before they can be excluded.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92

461-140-0430

Cooperation with a Plan for Self-Support

- (1) Clients must cooperate with the plan for self-support by doing all the following:
 - (a) Report any changes in circumstances that require changes in the plan as originally approved;
 - (b) Follow through with the written plan without any break exceeding the following:
 - (A) Normal vacations from school or training; or
 - (B) Three months, unless the reasons are beyond their control.
 - (c) Notify their worker as soon as the goal of self-support is reached.
- (2) If clients do not cooperate with the plan, redetermine program eligibility. Count income and resources previously excluded under the plan.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-140-0440

Establishing New or Revised Plans for Self-Support

A plan for self-support may be revised or a new plan established. To be new, the plan must not have any relationship to the old plan. Use the following considerations for establishing a new plan or revising an old plan:

- (1) Funds saved under the old plan may become a part of the revised or new plan.

- (2) If changes are made in excluded assets, redetermine eligibility and the payment amount.
- (3) If the revised plan exceeds the time limits per OAR 461-140-0410, approval is for the maximum period only.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.632

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 145

SPECIFIC TYPES OF ASSETS

461-145-0001

Adoption Assistance

- (1) Adoption assistance is 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 (Public Law 96-272). State adoption assistance is authorized by ORS 440.335.
- (2) For all programs except ERDC, treat adoption assistance as follows:
- (a) Exclude the portion of adoption assistance that is for the special needs of the child. This includes needs such as special diet, special clothing, counseling, and medical costs not covered under Title XIX;
 - (b) Count the rest of the adoption assistance as unearned income.
- (3) For ERDC, exclude adoption assistance.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.116, 411.120, 411.630, 411.730, 411.816 & 414.042

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0005

Agent Orange Disability Benefits

- (1) For all programs except GA and GAM:
- (a) Exclude benefits from the Agent Orange Settlement Fund made by Aetna Life and Casualty for settling Agent Orange disability claims;

(b) Count payments made under the Agent Orange Act of 1991, and issued by the U.S. Treasury through the Department of Veterans' Affairs, as unearned income.

(2) For GA and GAM, count all Agent Orange payments as lump-sum income.

Stat. Auth.: ORS 411.060, 411.070, Ch. 412, 413, 414 & 418

Stats. Implemented: ORS 411.700 & 411.816

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

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) Count Alaska Permanent Fund Dividend payments as lump-sum income.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92

461-145-0010

Animals

(1) Exclude pets and animals raised as food for the financial group.

(2) Treat income-producing animals according to the policy on income-producing property.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0020

Annuities, Dividends, Interest, Royalties

(1) Count all payments from annuities, dividends, and interest as unearned income, including trust dividends the client reinvests in the trust, except for trusts outlined in OAR 461-145-0540(10).

(2) Count royalties as unearned income unless the client is actively engaged in the activity from which the royalties are accrued. If so, count royalties as earned income.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0030

Bank Accounts

- (1) Count money in a bank account belonging to one or more members of the financial group as a resource.
- (2) Treat bank accounts held jointly with people not in the financial group as follows:
 - (a) For FS, count all funds in the account unless the client proves some or all are not available. Count the available amount;
 - (b) For all other programs, count only those funds contributed to the account by the client. Exclude other funds unless there is clear evidence they are available to the client.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0040

Burial Arrangement

- (1) Burial arrangements may include prepaid arrangements made with a licensed funeral director, burial insurance, and trust funds that make allowance for burial costs. Burial arrangements do not include a burial space.
- (2) For ADC, ADCM, ERDC, OHP, REF and REFM, exclude the equity value of all prepaid burial arrangements.
- (3) For FS, count the equity value of all prepaid, revocable burial arrangements as a resource. Exclude irrevocable burial arrangements.
- (4) For GA and GAM, count the equity value of burial insurance policies as a resource. Count the total value of all other burial arrangements as a resource.
- (5) For grandfathered OSIP and OSIPM clients, exclude up to \$1,000 combined equity value of burial arrangements with a licensed funeral director (plus accrued interest) and life insurance policies. Count the amount of combined cash and equity value of all life insurance and burial arrangements that is over \$1,000 as a resource.
- (6) For OSIP, OSIPM, and QMB:
 - (a) A burial fund includes revocable burial contracts, burial trusts (or other burial arrangements) and any other identifiable funds set aside for a client's burial costs.
 - (A) Burial funds cannot be excluded if they are commingled with nonburial-related assets. The amount set aside for burial must be in a separate account to be considered excluded from resource consideration.
 - (B) The burial fund may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds or life insurance policies. No overpayment or ineligibility results if the client or their representative agrees to

establish the burial fund.

(C) A burial fund may be established if the countable resources of the client exceeds allowable limits.

(D) A burial fund exclusion applies only if the burial fund makes the client ineligible due to excess resources.

(b) Exclude up to \$1,500 of a burial fund for each of the following:

(A) The client.

(B) The client's spouse.

(c) Subtract both the following from the amount each client may set aside for a burial fund:

(A) The face value of life insurance policies owned by the client that have already been excluded from resources.

(B) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs.

(d) Exclude all interest earned on excluded burial funds or increases in the value of excluded burial arrangements if left in the fund.

(e) There is no penalty if a client uses excluded burial funds for any purpose other than burial costs. No overpayment is determined and future OSIP/Title XIX benefits will not be reduced.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 115.125, 411.700 & 411.816

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

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 persons. They also include headstones and the opening and closing of the grave.

(2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations.

(3) For ADC, ADCM, ERDC, FS, OHP and REF, exclude one burial space per financial group member. Exclude burial merchandise owned by the client and designated for themselves, their spouse, minor and adult children, siblings, parents and the spouse of any of these people.

(4) For GA and GAM, count the equity value of a burial space and the equity value of burial merchandise as resources.

(5) For OSIP, OSIPM, and QMB, exclude a burial space and burial merchandise owned by the client and designated for themselves, their spouse, minor and adult children, siblings, parents and the spouse of any of these people.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-145-0060

Cash

- (1) Count cash (including cash on hand, cash in a safety deposit box, and cash held by others) as a resource.
- (2) Count as a resource foreign currency that can be converted to U.S. currency. The value of foreign currency is its value in U.S. currency, determined by the current exchange rate.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, 411.816, 414.042, Ch. 416 & 418

Stats. Implemented: ORS 411.700 & 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

461-145-0070

Cash Contribution

- (1) Cash contributions are monies given voluntarily to a financial group member by someone who is not in the group.
- (2) For FS, count cash contributions as unearned income. However, exclude cash contributions from charitable sources if all the following are true:
 - (a) The contribution is from a DHR-certified, private, nonprofit charitable organization;
 - (b) The contribution is based on need;
 - (c) The contribution does not exceed \$300 per quarter.
- (3) For all other programs, count contributions as unearned income.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0080

Child Support

- (1) Child support is income paid (voluntarily, per court order or per administrative order) by an absent parent for a dependent child or minor parent in the financial group. All child support is considered the dependent child's or minor parent's income.
- (2) For ADC, ADCM, REF and REFM:
 - (a) In determining eligibility, except for clients working under a JOBS Plus agreement, count as unearned income all child support received by RSS, if continued receipt of the child support is reasonably anticipated. Exclude these payments when determining the benefit amount.

- (b) For clients working under a JOBS Plus agreement:
 - (A) Exclude child support in determining countable income.
 - (B) Exclude child support when calculating the ADC portion of the benefit equivalency standards.
 - (C) Count all child support paid directly to the client as unearned income when calculating the wage supplement.
 - (c) Count as unearned income all other child support payments paid directly to the financial group.
- (3) For ERDC:
 - (a) Count all child support paid directly to the financial group as unearned income.
 - (b) Exclude all other child support.
- (4) For FS, treat child support as follows:
 - (a) Exclude child support payments the group receives that must be assigned to the Division to maintain ADC-BAS eligibility, even if the group fails to turn the payments over to the Division.
 - (b) Exclude child support payments received by filing groups with at least one member working under a JOBS Plus agreement, except in calculating the supplemental payment per subsection (3)(c) of this OAR.
 - (c) Count all other child support as unearned income.
 - (d) Exclude payments made by the absent parent to a third party for the benefit of the financial group.
- (5) For OHP, count all child support paid directly to the financial group or paid to a third party for the benefit of the financial group as unearned income.
- (6) For OSIP, OSIPM and QMB, count all child support paid to the financial group as unearned income. Do not allow an income deduction for child support paid by the financial group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0085

Civil Liberties Act of 1988

- (1) For all programs except GA and GAM, exclude benefits received as restitution under Title I or II of Public Law 100-383 (the Civil Liberties Act of 1988) by the following people:
 - (a) People of Japanese ancestry or resident Japanese aliens interned during World War II, or their survivors; or
 - (b) Aleuts from the Aleutian or Pribilof Islands relocated during World War II.

(2) For GA and GAM, count these benefits as lump-sum income.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.700 & 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

461-145-0090

Disability Benefit

(1) Count state or private disability payments received monthly, or more frequently than monthly, as unearned income. For temporary disability insurance payments, see OAR 461-145-0120.

(2) Count all other payments as periodic or lump-sum income.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816, ACF-AT-94-12

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

461-145-0100

Disaster Relief

(1) Exclude government payments designated and used for restoring a home damaged in a disaster.

(2) Exclude money received for emergency replacement of disaster losses.

(3) Exclude Federal Emergency Disaster Management Agency (FEMA) payments made under the Disaster Relief Act of 1974, and comparable payments from states, local governments, and disaster assistance organizations.

(4) Exclude disaster assistance payments made to farmers under Public Law 100-387.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.116, 411.120, 411.300, 411.632, 411.700, 411.710, 411.816, 412.025, 412.520, 413.009, 414.032, 414.042, Ch. 416 & 418

Stats. Implemented: ORS 411.700 & 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 13-1991, f. & cert. ef. 7-1-91

461-145-0110

Domestic Volunteer Services Act (VISTA, RSVP, SCORE, ACE)

(1) Treat VISTA (Title I of Public Law 93-113 Domestic Volunteers Service Act) payments as follows:

(a) For ADC, ADCM, and OHP, exclude these payments unless the total value of all VISTA compensation is equal to or greater than the state minimum wage. If so, count as earned income;

(b) For GA and GAM, count VISTA payments as unearned income;

(c) For all other programs:

(A) Exclude VISTA payments if the client is receiving program benefits when they join VISTA. Continue to exclude the payments until the client has a break in receiving benefits of more than one month;

(B) Count VISTA payments as earned income for clients who joined VISTA before applying for program benefits.

(2) Exclude Title II of Domestic Volunteer Service Act (Public Law 93-113) payments (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.

(3) Exclude Title III payments (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, 411.620, 411.630, 411.632, 411.635, 411.640 & 411.816

Stats. Implemented: ORS 411.700 & 411.816, 7 CFR 273.9(c)(10)

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

461-145-0120

Earned Income; Defined

Earned income is income received in exchange for a person's physical or mental labor. Earned income includes, but is not limited to:

(1) Compensation for services performed. This includes wages, salaries, commissions, tips, sick leave, vacation pay, draws or the sale of one's blood or plasma.

(2) Income from on-the-job-training, paid job experience, JOBS Plus work experience, or JTPA work experience.

(3) In-kind income, when the client is an employee of the person providing the in-kind income and the income is in exchange for work performed by the client.

(4) Income from self-employment.

(5) Flexible (cafeteria plan) benefits that the employee takes as cash.

(6) Income from work-study.

(7) Income from profit sharing that the client receives monthly or periodically.

(8) Additionally for ADC, income from employer-funded temporary disability insurance and temporary worker's

compensation paid to a client who is still considered to be employed while recuperating from a temporary illness or injury.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS 411.700 & 411.816, ACF AT-94-12

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

461-145-0130

Earned Income; Treatment

Count all earned income as earned income, except for the following:

- (1) Exclude flexible benefits used to pay for child care or health insurance costs that are not:
 - (a) Reimbursed by the Division; or
 - (b) Allowed as costs in earned income deductions.
- (2) Treat JOBS Plus income as follows:
 - (a) For ADC-BAS:
 - (A) When JOBS Plus income is earned by FS-PLS, NCP-PLS or UI-PLS clients, count it as earned income in determining initial ADC-BAS eligibility.
 - (B) When determining the need for ADC-BAS supplements for ADC-PLS clients, treat the income as follows:
 - (i) Exclude it in determining the countable income limit and in calculating the benefit equivalency standards.
 - (ii) Count it as earned income in calculating the wage supplement.
 - (C) Count as earned income any JOBS Plus wages received after the month that the client last worked under a JOBS Plus agreement.
 - (b) For FS:
 - (A) When JOBS Plus income is earned by NCP-PLS or UI-PLS clients:
 - (i) Count it as earned income in determining initial FS eligibility.
 - (ii) Exclude it in determining ongoing eligibility.
 - (B) Count as earned income any JOBS Plus wages received after the month that the client last worked under a JOBS Plus agreement.
 - (c) For all other programs, count the JOBS Plus income as earned income.
- (3) For ADC, ADCM and REF, exclude the earned income of the following financial group members in the month of receipt. Count any money remaining after the month of receipt as a resource.
 - (a) Dependent children age 18 or under, or minor parents, who are full-time students in grade 12 or below (or the

equivalent level of vocational training, GED courses or home schooling approved by the local school district).

(b) Dependent children under age 18 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.

(4) For ERDC and OHP, exclude all earned income of children.

(5) For FS, exclude:

(a) The earned income of an individual under age 18 if they are under the parental control of another member of the household and:

(A) Attending elementary or high school;

(B) Attending GED classes recognized by the local school district; or

(C) Completing home-school elementary or high school classes recognized by the local school district.

(b) All in-kind earned income.

(c) Any amount deducted from base pay for future educational costs under Public Law 99-576 for clients on active military duty.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0140

Earned Income Credit (EIC)

(1) EIC is a federal tax program for low-income families. EIC may be received in one of two ways:

(a) On a monthly basis;

(b) As one annual payment received at the time of the normal income tax returns.

(2) For all programs except FS, GA, GAM, OSIP, OSIPM and QMB, exclude all EIC payments.

(3) For FS, exclude the EIC as long as the criteria in OAR 461-140-0070 are met.

(4) For GA, GAM, OSIP, OSIPM and QMB, count EIC as follows:

(a) Count monthly payments as earned income;

(b) Count annual payments as a resource.

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 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

461-145-0150

Educational Income

(1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be given to one of the following:

(a) Students at a recognized institution of post-secondary education. Post-secondary education is education offered by institutions primarily to individuals age 18 or older. Admission may or may not require a high school diploma or equivalent.

(b) Students at a school for the disabled.

(c) Students in a vocational education program.

(d) Students in a program that provides for completion of secondary school diploma or obtaining the equivalent.

(2) To determine the amount of educational income to exclude, use education expenses listed in the financial aid award letter unless one of the following is true:

(a) The information is not available in the award letter, or the student provides verification of amounts different from those listed in the award letter. In these situations, use the verified amounts from the student.

(b) The student receives child care benefits (i.e., ERDC or other child care subsidies). In that situation, exclude from educational income the amount the student actually pays for child care (e.g., the ERDC copay) instead of the amount shown in the award letter.

(c) The student states actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, calculate the number of commuting miles to and from school and multiply by \$0.20. Exclude the calculated amount or the amount from the award letter, whichever is greater.

(3) For ADC, ADCM, OHP, OSIP, OSIPM, REF and REFM:

(a) Exclude all educational income from the Carl D. Perkins Vocational and Applied Technology Education Act, Title IV of the Higher Education Act, and the Bureau of Indian Affairs (BIA).

(b) For all other educational income, exclude all income from loans. In addition, exclude any amount used (or anticipated to be used) for tuition, mandatory fees, books and supplies, transportation, child care, and miscellaneous personal expenses (except room and board).

(4) For ERDC and FS, exclude all educational income from the BIA and Title IV of the Higher Education Act. Also exclude the cost of the following items from remaining educational funds (including non-Title IV work study and educational loans):

(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) Additionally for FS, exclude dependent care costs. For ERDC, do not exclude dependent care costs.
- (5) For GA and GAM, exclude educational income (including work study) used to pay for tuition and mandatory fees.
- (6) For all programs, after allowing exclusions, treat the remaining income as follows:
 - (a) Count work study, fellowships and teaching-assistant income not excluded per section (3) or (4) of this OAR as earned income. This may include work study provided through the VA program or other educational programs.
 - (b) For all programs except OHP, count other educational income by prorating it over the period it is intended to cover, then begin counting the prorated amount in the first month of the period if the client has already received the income. Begin counting the prorated amount in the month of the period it is expected to be received, for income that the client has not received. For OHP, count educational income in the month received.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0170

Energy Assistance

- (1) For all programs except FS, exclude all energy assistance payments or allowances made under any federal, state, or local law (Public Law 96-249). These payments include:
 - (a) Energy assistance payments provided through a Department of Health and Human Services Low-Income Assistance Program.
 - (b) Energy assistance payments provided through the Low-Income Energy Assistance Act of 1981 under Public Law 97-35, Section 2605(F) (LIEAP).
- (2) For FS:
 - (a) Exclude the following:
 - (A) All federal energy assistance (including the examples listed in section (1) above), except payments issued under ADC; and
 - (B) Federal or state one-time energy assistance payments for weatherization or emergency repair or replacement of heating or cooling devices.
 - (b) Count all other energy assistance payments as unearned income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700, 411.800 & 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 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-145-0180

Family Support Payments

Family Support Program payments are authorized by the Developmental Disabilities Act. These are funds distributed by the Oregon Developmental Disabilities Council to state or local agencies to provide supportive payments to families with a disabled person. Treat these payments as follows:

- (1) For ADC and ADCM, exclude:
 - (a) Any payment for services or needs not covered by ADC; and
 - (b) Shelter payments.
- (2) For ERDC, exclude these payments unless they duplicate day care payments made by AFS.
- (3) For FS, treat payments provided specifically for an identified expense as a reimbursement, per OAR 461-145-0440. Treat lump-sum payments per OAR 461-140-0120. Treat all other payments as unearned income.
- (4) For OHP, exclude these payments.
- (5) Treat all other Family Support Program payments as unearned income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1997, f. & cert. ef. 7-1-97

461-145-0190

Food Programs; Not FS Benefits

Exclude the following:

- (1) Benefits from the Special Supplemental Food Program for Women, Infants and Children (WIC) under Public Law 92-443, Section 9.
- (2) The value of supplemental food assistance under the Child Nutrition Act and the National School Lunch Act.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0200

Foster Care Payment

Treat foster care payments as follows:

- (1) For all programs except ERDC and FS:

- (a) If the provider of foster care is in the financial group:
 - (A) Exclude the amount the placement agency identifies as room and board, clothing and personal incidental needs (including recreational expenses) of the foster care client;
 - (B) Exclude the amount designated for special need items of the foster care client;
 - (C) Count the remaining amount as earned income.
 - (b) If the provider of foster care is not in the financial group, exclude the foster care payments.
- (2) For ERDC and FS, count the payments as unearned income only if the person in foster care is in the filing group. Otherwise, exclude these payments.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.595, 412.520, Ch. 413, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 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

461-145-0210

Gifts and Winnings

- (1) For the purposes of this OAR:
- (a) Gifts are items given to or received by an individual on or for a special occasion, such as Christmas, Hanukkah, birthday, graduation, wedding, etc. They are not given or received on a regular basis. Gifts can be cash or non-cash.
 - (b) Winnings are prizes given to an individual in a contest, lottery, etc. They can be cash or non-cash. Cash winnings can be distributed periodically (e.g., monthly) or in a lump-sum.
- (2) For all programs except ERDC, treat noncash gifts and winnings according to policy for the specific type of asset. Treat cash gifts and winnings as periodic or lump-sum income.
- (3) For ERDC, exclude all gifts and winnings.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 9-1997, f. & cert. ef. 7-1-97

461-145-0220

Home

- (1) A home is the place where the filing group lives. A home can 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) For all programs except FS, property must meet all the following criteria to be considered contiguous property:

- (i) It must not be separated by land owned by people outside the financial group;
- (ii) It must not be separated by public rights-of-way, such as roads;
- (iii) It must be property that cannot be sold separately from the home.

(B) For FS, contiguous property is property not separated by land owned by people outside the financial group. In addition:

- (i) Contiguous property may be separated by public rights-of-way, such as roads; and
- (ii) Property is contiguous even when it can be sold separately from the home.
- (b) Other dwellings on the land surrounding the home that cannot be sold separately from the home;
- (c) Additionally for FS, land that the financial group is building, or plans to build, their home on.

(2) Exclude the value of a home when it is occupied by the financial group. Additionally for FS, exclude the value of land the group is building, or plans to build, their home on. If the FS financial group owns (or is buying) the home they live in and has separate land they intend to build on, exclude only the home in which they live. Treat the land they intend to build on as real property per OAR 461-145-0420.

(3) Exclude the value of a home during a client's temporary absence from the property if the absence is due to illness or natural disaster and the client intends to return home. Also, exclude the value of a home under the following circumstances:

(a) For ADC, ADCM, REF and REFM, if the client's absence is due to one of the following:

(A) The client is employed in seasonal employment, and intends to return to their home when the employment ends; or

(B) The client is searching for employment and the search requires the filing group to relocate away from their home. Exclude the home for up to six months from the date the filing group leaves their home to search for employment. After the six months, if the filing group does not return, treat the home as real property.

(b) For FS, if the client's absence is due to employment or training;

(c) For GA, GAM, OSIP, OSIPM and QMB, if the client's absence is due to receiving care in a medical institution and one of the following is true:

(A) The absent client is a single adult who has provided convincing evidence that they will return to the home. Review this at each redetermination after the client has been absent from the home for six consecutive months;

(B) The home remains occupied by the client's spouse, child, or a relative dependent on the client for support. The child must be under age 21 or, if over age 21, blind or disabled as defined by SSI criteria.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.116, 411.120, 411.300, 411.620, 411.632, 411.700, 411.710, 411.816, 412.025, 412.520, 413.009, 414.032, 414.042, Ch. 416 & 418

Stats. Implemented: ORS 411.700 & 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 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

461-145-0230

Housing and Urban Development

(1) Treat payments from HUD made to a third party as follows:

(a) For ADC-BAS, ADCM (except ADCM-EA), REF, and REFM, use the payment in determining Shelter-in-Kind income.

(b) For ADC-EA, ADCM-EA, ERDC, GA, GAM, OHP, OSIP, OSIPM, and QMB, exclude these payments.

(c) For FS, exclude these payments.

(2) Treat HUD payments made directly to a member of the financial group, except Youthbuild Program payments and Family Investment Centers payments, as follows:

(a) For ADC-BAS, ADCM (except ADCM-EA), REF, and REFM, use the payment in determining Shelter-in-Kind income. If the payments are made in a lump sum, count as unearned income.

(b) For ADC-EA, ADCM-EA and OHP, count as unearned income.

(c) For ERDC, GA, GAM, OSIP, OSIPM, and QMB, exclude these payments.

(d) For FS, exclude payments for utilities. Count other payments as unearned income.

(3) Treat Youthbuild Program payments as follows:

(a) For ADC-BAS, if the Youthbuild Program participant is a dependent child in the filing group, or a caretaker relative age 19 or younger, exclude the payments. If the participant is a caretaker relative over age 19, treat the payments as follows:

(A) Exclude incentive payments that are reimbursements for specific expenses not covered by program benefits, e.g., transportation, school supplies, etc.

(B) Count on-the-job training (OJT) or work experience payments as earned income.

(C) Count the bonus payment (the incentive payment for attendance) as unearned income.

(b) For ERDC, FS and OHP, treat Youthbuild payments as earned income.

(4) Exclude escrow accounts that are established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD.

(5) Treat payments issued under Public Law 101-625 (Family Investment Centers) as follows:

(a) Count wages as earned income and stipends as unearned income.

(b) Exclude service payments for items such as child care, basic education, literacy or computer skills training, etc.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700, 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 20-1992, 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

461-145-0240

Income-Producing Contract

- (1) Treat the equity value of income-producing contracts as follows:
 - (a) For ADC-BAS, ADCM (except ADCM-EA), GA, GAM, REF, and REFM, count it as a resource.
 - (b) For ADC-EA, ADCM-EA, ERDC, FS, OHP, OSIP, OSIPM, and QMB, exclude it.
- (2) For all programs except ADC-BAS, ADCM-BAS, REF and REFM, count the income received from the contract, minus necessary costs, as unearned income. Allow the same costs allowed for self-employment income.
- (3) For ADC-BAS, ADCM-BAS, REF and REFM, exclude monthly income received from the contract.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0250

Income-Producing Property

- (1) Income-producing property is any real or personal property that generates income for the financial group. Examples of income-producing property are:
 - (a) Livestock, poultry, and other animals.
 - (b) Farmland, rental homes, vacation homes, condominiums.
- (2) Treat the equity value of income-producing property as follows:
 - (a) For ADC-BAS, ADCM (except ADCM-EA), REF and REFM, count it as a resource.
 - (b) For ADC-EA, ADCM-EA, ERDC and OHP, exclude it.
 - (c) For FS, count as a resource unless either of the following is true:
 - (A) Exclude the equity value of property that produces an annual countable income that is similar to other properties in the community with comparable market value.
 - (B) Exclude the equity value of income-producing livestock, poultry, and other animals.
 - (d) For GA, GAM, OSIP, OSIPM, and QMB, count as a resource, except as follows:
 - (A) Exclude up to \$6,000 of the equity value if the property produces an annual countable income of at least 6 percent of its equity value.
 - (B) Exclude the total equity value if all the following are true:

- (i) The property is used in a trade or business.
 - (ii) The property is essential to the client's self-support.
 - (iii) The property produces an annual countable income of at least 6 percent of its equity value.
- (e) For grandfathered OSIP and OSIPM clients, count as a resource, except that income-producing property in excess of the resource limit is excluded if all the following are true:
- (A) It provides partial or full financial support or has a significant rehabilitative effect on the client.
 - (B) Time spent at the property or business is more profitable than working the same amount of time for wages at the usual rate of pay in the community.
 - (C) The property or business pays its own costs and yields a reasonable profit.
 - (D) The client maintains adequate bookkeeping records to show business cost and profit.
 - (E) The value of the business is based on the wholesale value of the inventory plus the present sale price of equipment. If the value is more than \$5,000, the client must provide expert fiscal evaluation from a local recognized authority, such as a bank. Other assets owned by the client cannot be included as business assets unless expert fiscal evaluation is provided.
- (3) Count the income from income-producing property as follows:

- (a) If a financial group member actively manages the property 20 hours or more per week, count as self-employment income.
- (b) If a financial group member manages the property less than 20 hours per week, count as unearned income minus necessary costs. Allow the same costs allowed in determining countable self-employment income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0255

Independent Living Subsidies

Independent Living Subsidies are payments made and services provided by CSD to children ages 16 through 20. The subsidies are to assist the individuals to live independently when their foster care payments were discontinued on or after the date they reached 16 years of age:

- (1) For all programs except ADC-EA and FS, exclude all independent living subsidies issued by CSD.
- (2) For ADC-EA and FS, count the payments as unearned income.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 28-1992, f. & cert. ef. 10-1-92

461-145-0260

Indian (Native American) Benefits

(1) Exclude the following Indian benefits:

- (a) Indian lands held jointly with the tribe, or land that cannot be sold without the approval of the Bureau of Indian Affairs;
- (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) Treat payments from the Bureau of Indian Affairs General Assistance program as follows:

- (a) For all programs except FS, exclude these payments;
- (b) For FS, count these payments as unearned income.

(3) For all programs except GA and GAM, exclude the following types of distributions provided under Public Law 100-241 (Alaska Native Claim Settlement Act):

- (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 financial group member per year. Count the amount over \$2,000 as lump-sum income.

(4) For all programs except GA and GAM, exclude payments to:

- (a) Any Indian, when the payment is from submarginal land held in trust by the United States under Public Law 94-114;
- (b) Blackfeet Indians under Public Law 92-254;
- (c) Grand River Ottawa Indians under Public Law 94-540;
- (d) Passamaquoddy Tribe and Penobscott Nation under the Indian Claims Settlement Act (Public Law 96-420);
- (e) Sac and Fox Indian Claims under Public Law 94-189;
- (f) Umpqua Tribe Cow Creek Band under Public Law 100-139;
- (g) Yakima Nation Confederated Tribes and Bands of the Mescalero Reservation Apache Tribe under Public Law 95-433;
- (h) Any Indian, when the payment is from judgment funds held in trust by the U.S. under Public Law 97-458 or 98-64;
- (i) The Aroostook Band of Micmacs;

(j) The Holton Band of Maliseet Indians;

(k) Any Indian, for Indian Child Welfare payments under Public Law 95-608.

(5) For all programs except GA and GAM, treat payments under Public Law 92-203 (Alaska Native Claim Settlement Act) as follows:

(a) For FS, exclude the entire payment;

(b) For all other programs, exclude only the tax-exempt portion of the payment. Count the remainder as unearned income.

(6) For all programs except GA and GAM, treat payments under Public Law 93-134, Public Law 100-580 and Public Law 103-66 as follows:

(a) For FS, exclude the first \$2,000 of each per-capita payment for each financial group member. Count the amount over \$2,000 as lump-sum income;

(b) For all other programs, exclude the entire payment.

(7) For all programs except GA and GAM, treat payments to Seminole Tribe members as follows:

(a) Exclude the first \$2,000 of each per capita payment for each financial group member;

(b) Count the amount over \$2,000 as lump sum income.

(8) For all programs, count any payments distributed by the tribe and not excluded by public law as unearned income.

(9) For GA and GAM, count Indian benefits described in sections (3) through (7) of this OAR as periodic or lump-sum income unless the client verifies that such benefits are excluded by public law for state-funded programs.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0265

Individual Education Account (IEA)

The IEA is an asset accrued by JOBS Plus participants. Exclude the IEA while it accumulates, while it is saved, and when it is withdrawn for educational purposes.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS 411.700 & 411.816, Note prec. ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-145-0270

Inheritance

An inheritance may be received in the form of monies, property or other assets. Treat an inheritance as follows:

- (1) For all programs except ERDC, GA, GAM, OSIP, OSIPM and QMB, treat non-cash inheritances according to policy for the specific type of asset. Count cash inheritances as periodic or lump-sum income.
- (2) For ERDC, exclude all inheritances.
- (3) For GA, GAM, OSIP, OSIPM and QMB, count all inheritances as periodic or lump-sum income.

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.111, 411.630, 411.730, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.700 & 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

461-145-0280

In-Kind Income

- (1) In-kind income is compensation in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).
- (2) For all programs except ADC, ADCM and OHP, treat earned in-kind income according to the administrative OARs on earned income.
- (3) For all programs except ADC, ADCM and OHP, treat unearned in-kind income (except third-party payments) as follows:
 - (a) Exclude court-ordered community service work or bartering. Bartering is the exchange of goods of equal value.
 - (b) Treat items such as cars and furniture according to the administrative OAR for the specific type of asset.
- (4) For ADC, ADCM and OHP, exclude all in-kind income.
- (5) Treat unearned third-party payments as follows:
 - (a) Count payments made to a third party that should legally be paid directly to a member of the financial group as unearned income.
 - (b) Treat 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 absent parent to a third party, that are court-ordered but not designated as child support, as follows:
 - (A) For ADC, ADCM-EA, ERDC, exclude these third-party payments.
 - (B) For FS, exclude these third-party payments unless they are transitional housing payments for the homeless.
 - (C) For all other programs, exclude these third-party payments, except those made for the financial group's shelter costs. Treat third-party shelter payments according to the administrative OAR for shelter-in-kind.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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. 7-1-97

461-145-0290

Job Corps

Treat Job Corps payments as follows:

- (1) Count living allowance payments as earned income.
- (2) Count readjustment allowance payments as follows:
 - (a) For all programs except FS, count as earned income;
 - (b) For FS, count as lump-sum income.
- (3) Count reimbursements and support service payments for items already covered by the benefit group's benefits as unearned income. Exclude all other reimbursements and support service payments (including clothing allowances).

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0300

JTPA

Treat JTPA payments as follows:

- (1) Count need-based (stipend) payments as unearned income, except as follows:
 - (a) Exclude for ADC, ADCM and OHP clients age 18 and younger (age 19 if a caretaker relative); and
 - (b) Exclude for all FS clients.
- (2) Count OJT and work experience payments as earned income, except as follows:
 - (a) Exclude for ADC, ADCM and OHP clients age 18 and younger (age 19 if a caretaker relative); and
 - (b) Exclude for FS clients age 19 and younger who are under the control of an adult member of the filing group.
- (3) Count reimbursements and support service payments for items already covered by the benefit group's benefits as unearned income. Exclude all other reimbursements and support service payments (including lunch payments and clothing allowances).

Stat. Auth.: ORS 411.060, 411.700, 411.816 & PL 101-610

Stats. Implemented: ORS 411.700 & 411.816, PL 101-610

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

461-145-0310

Life Estate

- (1) For all programs except OSIP, OSIPM and QMB:
 - (a) A life estate is the right to real property for the lifetime of the person holding it or for the lifetime of some other person. It is usually established to allow a person to continue to live in a home until their death;
 - (b) If the financial group is living in the life estate, treat it as a home. If not, treat as real property.
- (2) For OSIP, OSIPM and QMB:
 - (a) A life estate is when an individual owns property and then transfers their ownership to another while retaining, for the rest of their life, certain rights to that property. In general, a life estate enables the owner of the life estate to possess, use and obtain profits from the property as long as they live. However, actual ownership of the property is passed to another individual;
 - (b) In a transaction involving a life estate, a transfer of resources is involved:
 - (A) The transfer is for less than fair market value whenever the value of the transferred resource is greater than the value of the rights conferred by the life estate;
 - (B) In determining whether a penalty is assessed because of a life estate and how long the penalty should be, compute the value of the resource transferred, and the value of the life estate, then calculate the difference between the two.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0320

Life Insurance

- (1) Count payments made to the beneficiary of a life insurance policy as unearned income. Allow a deduction, not to exceed \$1,500, for the cost of the deceased person's last illness and burial cost (if these costs were not otherwise insured).
- (2) Treat the equity value of a life insurance policy as follows:
 - (a) For all programs except GA, GAM, OSIP, OSIPM and QMB, exclude the equity value of the life insurance policy.
 - (b) For GA and GAM, count the equity value of a life insurance policy as a resource.
 - (c) For grandfathered OSIP and OSIPM clients, exclude up to \$1,000 combined equity value of burial arrangements with a licensed funeral director (plus accrued interest) and life insurance policies. Count the amount of combined equity value of all life insurance policies and burial arrangements that is over \$1,000 as a resource.

- (d) For OSIP, OSIPM, and QMB, exclude the total equity value of life insurance policies owned by the client or their spouse if the total face value of all policies is less than \$1,500. If the total face value of all policies is \$1,500 or more, count the entire equity value as a resource.
- (e) Exclude all term insurance.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0330

Loans and Repayment of Loans

A loan is a debt that the borrower must repay. To be considered a loan, there must be a written agreement between the borrower and lender. The written agreement must stipulate a repayment plan, and be signed and dated before the receipt of money. If the loan is used to purchase a non-cash asset (e.g., a car), treat it according to the policy for that asset. Treat educational loans according to OAR 461-145-0150. Treat all other loans as follows:

- (1) Count as unearned income payments made to the financial group on the interest portion of a loan the group has made to someone else.
- (2) For all programs except FS, GA and GAM, exclude:
 - (a) Loans obtained by the financial group; and
 - (b) Payments made to the financial group on the principal portion of a loan the group has made to someone else.
- (3) For FS, count cash on-hand from a loan as a resource.
- (4) For GA and GAM, count the following as unearned income:
 - (a) Loans obtained by the financial group.
 - (b) Payments made to the financial group on a loan the group has made to someone else.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97

461-145-0340

Lodger Income

- (1) A lodger is a person who is in the household group, but not in the financial group. Lodger income is the flat monthly payment a person makes either directly or indirectly to the financial group to live with the financial group.

(2) Treat lodger income as follows:

- (a) For all programs except GA, GAM, OSIP, OSIPM and QMB, count the amount the lodger pays as self-employment income.
- (b) For GA, GAM, OSIP, OSIPM and QMB, exclude the amount the lodger pays.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0350

Motor Vehicle; FS

For FS, treat licensed and unlicensed motor vehicles as follows:

- (1) Exclude the following motor vehicles (licensed and unlicensed):
 - (a) Vehicles used over 50 percent of the time for producing income (e.g., taxi, truck, or fishing boat).
 - (b) Vehicles that annually produce income consistent with their fair market value, even if used seasonally.
 - (c) Vehicles used for long-distance travel (other than daily commuting) essential to the employment of a financial group member. Such uses include traveling salespeople and migrant farm workers. Continue this exclusion during temporary periods of unemployment.
 - (d) Vehicles used as the financial group's home.
 - (e) Vehicles necessary to transport a financial group member who is physically limited, regardless of the reason for the transportation. Also exclude real property or equipment directly related to maintaining or using the necessary vehicle. This is limited to one vehicle per physically limited financial group member.
 - (f) Vehicles necessary to transport, for home use, water or fuel for heating. The transported water or fuel must be expected to be the primary source of water or fuel for the certification period.
 - (g) One licensed vehicle with equity value of \$9,000 or less, for financial groups who lose eligibility for ADC-BAS or the Assessment Program due to obtaining employment through the JOBS program. This exclusion applies as long as the group maintains eligibility by having either an open FS case or a one-month suspend FS case.
- (2) After determining which vehicles are totally excluded, determine if the remaining vehicles have an excess market value or countable equity value. Use the following criteria:
 - (a) Determine if a vehicle has an excess market value by excluding the first \$4,650 of fair market value of each licensed and unlicensed vehicle, regardless of encumbrances. The remainder is excess market value. Determine fair market value per OAR 461-140-0050.
 - (b) Determine if any vehicle has countable equity value after excluding:
 - (A) One licensed vehicle selected by the financial group; and

(B) Any licensed vehicle used to transport financial group members to and from employment, training, education preparatory to employment, or to seek employment in compliance with the job search requirements. Continue excluding the equity value during temporary periods of unemployment, if future employment is foreseen.

(C) The number of excluded licensed vehicles cannot exceed the number of drivers in the financial group.

(c) Count the following as a resource:

(A) The excess fair market value.

(B) The equity value of any remaining licensed and all unlicensed vehicles.

(C) The greater value if a vehicle has both excess fair market value and countable equity value.

Stat. Auth.: ORS 411.060

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 19-1994, f. & cert. ef. 9-1-94; 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 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

461-145-0360

Motor Vehicle; Not FS

(1) For ADC-BAS and ADCM-BAS, exclude up to \$10,000 equity value of one licensed motor vehicle selected by the financial group.

(2) For ADC-EA, ADCM-EA, ERDC and OHP, exclude all motor vehicles.

(3) For GA, GAM, REF and REFM, exclude up to \$1,500 equity value of one licensed motor vehicle selected by the financial group. Count any remaining equity in that vehicle and the total equity value of all other vehicles as a resource.

(4) For grandfathered OSIP and OSIPM financial groups, exclude one motor vehicle in operating condition and count the equity value of any other motor vehicles as a resource.

(5) For OSIP, OSIPM, and QMB:

(a) Exclude the total value of a vehicle selected by the financial group if it is used for employment or necessary and continuing medical treatment. If not, exclude the first \$4,500 of the fair market value.

(b) Count the amount above \$4,500 as a resource.

(c) Count the total equity value of all other vehicles as a resource.

Stat. Auth.: ORS 411.060 & 411.700

Stats. Implemented: ORS 411.060 & 411.700

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

461-145-0365

National and Community Services Trust Act (NCSTA)

(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) Treat NCSTA payments as follows:

(a) Count living allowance (stipend benefits) as follows:

(A) For ADC and ADCM-BAS, count as earned income, unless it is paid to clients age 18 and younger (age 19 if a caretaker relative). If so, exclude it.

(B) For ERDC, count as earned income if paid to a caretaker. If not, exclude it.

(C) For FS, exclude these payments.

(D) For OHP, exclude the income if paid to children. If not, count as earned income.

(b) Treat educational award and in-kind benefits as follows:

(A) For all programs except GA, exclude these benefits.

(B) For GA, treat these benefits according to the policy for the specific type of asset.

(c) Treat the child care allowance as follows:

(A) For ADC-BAS and ERDC clients eligible for direct provider payment of child care, count the allowance as unearned income. Exclude the allowance only if the client already pays the provider. The provider will be paid for only the costs not covered by the allowance.

(B) For FS clients receiving a child care deduction, allow the deduction only for the costs not covered by the allowance.

(C) For OHP, exclude the allowance.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0370

Older Americans Act

(1) For all programs except FS, GA and GAM, exclude benefits under Title III of the Older Americans Act of 1965 (Nutrition Program for the Elderly). For FS, GA and GAM, count these benefits as unearned income.

(2) For all programs except FS, count as earned income benefits paid to persons age 55 and older under Title V of the Older Americans Act of 1965 (Green Thumb, 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. For FS, exclude all payments under this Act.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.816

Stats. Implemented: ORS 411.700 & 411.816, FNS AN 94-25

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

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.
- (2) Treat benefits the client receives at retirement as follows:
 - (a) Count monthly payments as unearned income;
 - (b) Count all other payments as periodic or lump-sum income.
- (3) Treat pension and retirement plans that allow clients to withdraw funds before retirement as follows:
 - (a) For all programs except FS and OHP, count as a resource the equity value of the plan, minus any penalty for early withdrawal;
 - (b) For FS, count as a resource the total amount of an IRA or KEOGH, minus any penalty for early withdrawal. Exclude the value of any other plan;
 - (c) For OHP, exclude the equity value of the plan.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700, 411.816 & 414.025(2)(u)

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

461-145-0390

Personal Belongings

Personal belongings are such items as household furnishings, clothing, heirlooms, keepsakes, and hobby equipment. Treat personal belongings as follows:

- (1) For GA, GAM, non-grandfathered OSIP and OSIPM and QMB, exclude the total fair market value of personal belongings, up to \$2,000. Count the amount above \$2,000 as a resource.
- (2) For all other programs, exclude the value of all personal belongings.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0400

Personal Injury Settlement

- (1) For all programs except ERDC, treat personal injury settlements as follows:
 - (a) Count monthly payments as unearned income;
 - (b) For all programs except grandfathered OSIP and OSIPM, count all other payments as periodic or lump-sum income;
 - (c) For grandfathered OSIP and OSIPM clients, count the balance from personal injury claims after the Division's lien is satisfied as lump-sum income. If the lien was not filed due to the recipient's failure to notify the Division of the claim, count the payment as unearned income.
- (2) For ERDC, exclude all personal injury settlements.

Stat. Auth.: ORS 411.060, 411.105, 411.111, 411.630, 411.730, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 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

461-145-0410

Program Benefits; AFS

- (1) Treat payments from ADC-BAS (including the 10 percent late processing fee discussed in OAR 461-165-0150), GA, OSIP and REF as follows:
 - (a) For all programs except ADC-EA, ADCM-EA, ERDC, FS and OHP:
 - (A) Exclude these payments in the month received and count as a resource any cash remaining in the months after receipt.
 - (B) Exclude payments made to correct an underpayment.
 - (b) For ADC-EA and ADCM-EA, count as unearned income, except for benefit groups whose emergent need is the result of domestic violence. For those benefit groups, exclude the payment.
 - (c) For OHP:
 - (A) Count as unearned income if all the people included in the benefit group for the cash payment are also in the OHP financial group.
 - (B) Count a prorated share as unearned income if any of the people in the cash payment are not included in the OHP financial group. Prorate by dividing the total payment by the number of people included in the payment.
 - (d) For ERDC, count as unearned income.

(e) For FS:

(A) Treat ADC-BAS payments as follows:

(i) For parents and their children who live together in a drug/alcohol treatment facility and are treated as separate filing groups, prorate the payment by dividing it by the number of people included in the payment. Treat each prorated share as unearned income.

(ii) For all other FS clients, treat the payments as unearned income.

(B) Treat OSIP payments as unearned income.

(C) Treat GA and REF payments as unearned income.

(D) Treat any amount received as a late processing payment as lump-sum income.

(E) Treat payments made to correct an underpayment as lump-sum income.

(F) Treat ongoing special needs payments for FS supplement, laundry allowances, restaurant meals, shelter exceptions and telephone allowances as unearned income. Exclude all other special needs payments as reimbursements.

(2) Treat ADC client incentive payments as follows:

(a) For all programs except ADC, count the monthly cooperation incentive special-need payments as unearned income.

(b) Count progress and outcome incentive payments received as cash as lump-sum income. Exclude all other incentives.

(3) Treat ADC-EA payments as follows:

(a) For ERDC and FS, count payments made directly to the client as unearned income. Exclude dual payee or provider-direct payments.

(b) For all other programs, exclude all payments.

(4) Exclude payments from ADCM, GAM, OHP, OSIPM, QMB and REFM.

(5) Treat Assessment Program payments as follows:

(a) For all programs except FS, exclude these payments.

(b) For FS, count payments for basic living expenses, made directly to the client, as unearned income. Exclude all other payments.

(6) Count ERDC payments and ADC-BAS child care payments as follows:

(a) Count provider-direct payments as the provider's earned income.

(b) Exclude all client-direct payments.

(7) For all programs except ADC-EA and ADCM-EA, exclude the value of all FS benefits. For ADC-EA and ADCM-EA, count as a resource only toward the filing group's emergency food needs.

(8) Exclude JOBS, JOBS Plus and OFFSET service payments.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700, 411.800 & 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 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

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. Treat these payments as follows:

- (1) For all programs except GA and GAM, exclude these payments.
- (2) For GA and GAM, count as lump-sum income.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92

461-145-0420

Real Property

Real property is land, buildings and whatever is erected or affixed to the land and taxed as real property. Treat real property that is not income-producing or the financial group's home as follows:

- (1) For ADC-BAS, ADCM-BAS, REF and REFM, count as a resource the equity value of all real property that is not excluded under an ADC Interim Assistance agreement.
- (2) For ADC-EA, ADCM-EA, ERDC and OHP, exclude real property.
- (3) For FS, exclude real property that the financial group is making a good-faith effort to sell at a fair market price. If the financial group refuses to make a good-faith effort to sell, count the equity value of the property as a resource.
- (4) For GA, GAM, OSIP, OSIPM, and QMB:
 - (a) Exclude real property that was the home of the financial group if they are making a good faith effort to sell at a reasonable price. If the financial group refuses to make a good-faith effort, count the equity value of the property as a resource.
 - (b) Count the equity value of all other real property as a resource.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0430

Real Property Excluded Under ADC Interim Assistance Agreement

For ADC-BAS, ADCM-BAS, REF and REFM, treat real property where the equity value puts the financial group over the ADC resource limit as follows:

- (1) Exclude real property for a maximum of nine months if the financial group signs and complies with the terms of the ADC Interim Assistance Agreement. After the ninth month, count the equity value of the property as a resource.
- (2) To comply with the terms of the ADC 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 Division for all benefits paid under the terms of the ADC Interim Assistance Agreement. The reimbursement will not exceed the net proceeds of the sale of the property.
- (3) The amount of benefits paid while the financial group has excess real property is an overpayment if the financial group fails to notify the Division that they have the property.
- (4) The amount of benefits paid while the financial group has excess real property up to the net proceeds of the sale of the property is an overpayment if the property sells and the financial group does not repay the Division per the terms of the ADC Interim Assistance Agreement.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 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

461-145-0433

Recreational Vehicles

- (1) Recreational vehicles must meet the following:
 - (a) They are used primarily for amusement and not for day-to-day transportation; and
 - (b) They cannot be licensed as a motor vehicle for use on a public highway. However, they may be registered or licensed as a non-motor vehicle.
- (2) For all programs except OHP, count the equity value of recreational vehicles as a resource.
- (3) For OHP, exclude recreational vehicles.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700, 411.816 & 414.025(2)(u)

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

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, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009 & 414.032

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91

461-145-0440

Reimbursement

A reimbursement is money or items provided specifically for an identified expense:

- (1) For all programs except ERDC, treat reimbursements as follows:
 - (a) Exclude all non-cash reimbursements;
 - (b) Exclude cash reimbursements used for the specific expense, unless the expense is covered by program benefits;
 - (c) Count reimbursements not used for the specific expense and reimbursements for items already covered by the benefit group's benefits as periodic or lump-sum income.
- (2) For ERDC, exclude all reimbursements except non-AFS reimbursements for child care. Count reimbursements for child care as unearned income.

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.111, 411.630, 411.730, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.700 & 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 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93

461-145-0450

Representative Payee Payment

- (1) Exclude payments received by a member of the financial group as a representative payee for others.
- (2) If payments include a financial group member's portion that cannot be readily identified, prorate the payment evenly among intended beneficiaries. Count the financial group member's share as unearned income.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0460

Sale of a Resource

- (1) For all programs except ADC, ADCM and ERDC, treat proceeds from the sale of a resource as follows:
 - (a) Count proceeds from the sale of a resource (other than a home) received on a monthly basis as unearned income. Treat proceeds received other than monthly as follows:
 - (A) If the proceeds are from the sale of an excluded resource, exclude the amount reinvested in another excluded resource. Count the remainder as a resource.
 - (B) Count the proceeds from all other sales as a resource. If the proceeds put the benefit group over the resource limit, treat the monies as periodic or lump-sum income.
 - (b) For all programs except grandfathered OSIP-AB and OSIPM-AB, exclude the proceeds from the sale of the financial group's home, if they intend to reinvest in another home within three months from receipt of funds.
 - (c) For grandfathered OSIP-AB and OSIPM-AB, exclude the proceeds from the sale of the financial group's home, if they intend to reinvest in another home within 12 months from receipt of funds.
 - (d) Count the proceeds from the sale of a home that are not reinvested in another home as a resource. For GA, GAM, OHP and REF, if the proceeds put the benefit group over the resource limit, count the monies as periodic or lump-sum income.
 - (e) Count the interest on the proceeds as unearned income.
- (2) For ADC and ADCM, if the proceeds are from the sale of an excluded resource, exclude the amount reinvested in another resource. Count all other proceeds from the sale of a resource as a resource.
- (3) For ERDC, exclude all proceeds from the sale of a resource.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0470

Shelter-in-Kind Income

- (1) Shelter-in-kind is when an agency or person outside the household group provides the financial group's shelter, or makes a payment to a third party for some or all of the financial group's shelter costs. Shelter costs are housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges.
 - (a) For all programs except GA, GAM, OSIP, OSIPM and QMB, shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities.

- (b) For GA, GAM, OSIP, OSIPM and QMB, shelter-in-kind also includes situations where the client has no shelter costs.
- (2) For ADC, ADCM, ERDC, GA, GAM, OHP, REF and REFM, exclude shelter-in-kind payments.
- (3) For FS, exclude shelter-in-kind housing and utility payments.
- (4) For OSIP, OSIPM and QMB, exclude shelter-in-kind payments from HUD. Treat other shelter-in-kind income as follows:
 - (a) If all shelter costs are covered by a payment, count the Shelter-in-Kind Standard for total shelter as unearned income.
 - (b) If only rent or mortgage costs are covered by a payment, count the Shelter-in-Kind Standard for housing costs as unearned income.
 - (c) If the client has no shelter costs, count the Shelter-in-Kind Standard for total shelter as unearned income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0490

Social Security Benefits

Treat all SSB as follows:

- (1) Count monthly payments as unearned income, except for retroactive payments back to the date of application. Monthly installments are paid to clients with a disability based on drug addiction or alcoholism per P.L. 103-296.
- (2) Count all other payments as periodic or lump-sum income.
- (3) Exclude the representative payee fee for clients who must receive payments through a representative payee under P.L. 103-296.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0505

Spousal Support

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

(2) For ADC, ADCM, REF and REFM:

- (a) In determining eligibility, except for clients working under a JOBS Plus agreement, count as unearned income all spousal support received by RSS, if continued receipt of the spousal support is reasonably anticipated. Exclude these payments when determining the benefit amount.
- (b) For clients working under a JOBS Plus agreement:
 - (A) Exclude spousal support in determining countable income.
 - (B) Exclude spousal support when calculating the ADC portion of the benefit equivalency standards.
 - (C) Count all spousal support received by the client as unearned income when calculating the wage supplement.
- (c) Count as unearned income all other spousal support payments paid directly to the financial group.

(3) For ERDC:

- (a) Count all spousal support paid directly to the financial group as unearned income.
- (b) Exclude all other spousal support.

(4) For FS, treat spousal support as follows:

- (a) Except for spousal support payments received by clients working under a JOBS Plus agreement, exclude spousal support payments the group receives that must be assigned to the Division to maintain ADC-BAS eligibility, even if the group fails to turn the payments over to the Division.
- (b) For clients working under a JOBS Plus agreement:
 - (A) Exclude spousal support in determining countable income.
 - (B) Count all spousal support received by the client as unearned income when calculating the wage supplement.
 - (c) Count all other spousal support as unearned income.
 - (d) Exclude payments made by the separated or divorced spouse to a third party for the benefit of the financial group.

(5) For OHP, count all spousal support payments as unearned income.

(6) For OSIP, OSIPM and QMB, count all spousal support paid to the financial group as unearned income. Do not allow spousal support paid by the financial group as an income deduction, except as provided in 461-160-0620.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0510

SSI

(1) For ADC-BAS and ADCM-BAS:

- (a) Exclude SSI monthly and lump-sum payments, even if received by a financial group member, if that person will be removed from the financial group the following month.
- (b) Treat SSI lump-sum in a bank account held jointly with other financial group members according to section (2)(b) of OAR 461-145-0030.
- (c) Exclude SSI retroactive lump-sum payments in the month paid and the next month, even if the recipient is in the financial group. Count the remainder as a resource after those two months, if the SSI recipient is still in the financial group.

(2) For ERDC, FS, GA, GAM and OHP:

- (a) Count SSI monthly payments as unearned income, except for retroactive payments back to the date of application. Monthly installments are paid to clients with a disability based on drug addiction or alcoholism per P.L. 103-296.
- (b) Count SSI lump-sum payments according to the specific program policy on lump-sum.
- (c) Exclude the representative payee fee for clients who must receive payments through a representative payee under P.L. 103-296.

(3) For OSIPM, exclude SSI lump-sum payments for six months. Count any sums remaining at the end of the six months as a resource.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0520

Stocks, Bonds and Other Securities

Count stocks, bonds and other securities including Certificates of Deposit (CD) as a resource.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

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 FS, count as unearned income.
- (2) For FS, 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

For all programs except GA and GAM, count the following types of tax refunds as a resource. For GA and GAM, count these refunds as unearned income:

- (1) Federal and state income tax refunds.
- (2) Property tax refunds, including Elderly Rental Assistance (ERA).

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92

461-145-0540

Trusts

- (1) Trust funds are money, securities or similar property held by a person or institution for the benefit of another person.
- (2) The following applies to all trust funds for ADC-BAS, ADCM-BAS, FS, OHP and REF. It also applies to OSIP and OSIPM for trust funds established before October 1, 1993:
 - (a) Count trust funds as a resource if the fund is legally available for use by a member of the financial group for items covered by program benefits.
 - (b) Exclude trust funds if the fund is not available for use by a member of the financial group. Require the financial group to pursue removing legal restrictions on the trust, unless this will cause an expense to the group.
 - (c) Count as a medical resource the part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible.
- (3) For ERDC, exclude all trust funds.
- (4) For OSIP and OSIPM, treat trust funds established on or after October 1, 1993, per sections (5) through (11) of this OAR.
- (5) A trust shall be 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.

(6) If the trust contains resources or income of another person, only the share attributable to the client will be considered as available.

(7) Except for section (10) of this OAR, the following factors shall not matter 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.

(8) If the trust is revocable, treat it as follows:

(a) The total value of the trust shall be considered a resource available to the client.

(b) Any payments made from the trust to or for the benefit of the client shall be considered as unearned income.

(c) Payments from the trust other than to or for the benefit of the client shall be considered as a transfer of assets per OAR 461-140-0295.

(9) If the trust is irrevocable, treat it as follows:

(a) If, under any circumstances, the funds transferred into the trust are unavailable and the trustee has no discretion in which to distribute funds to or for the benefit of the client, the client is subject to a transfer of resources penalty as outlined in OAR 461-140-0295.

(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 shall be considered a resource. Payments made for any reason other than to or for the benefit of the client shall be considered a transfer of assets subject to disqualification per OAR 461-140-0210.

(c) If, under any circumstances, income is generated by the trust and could be paid to the client, such income will be considered as unearned income. Payments made for any reason other than to or for the benefit of the client shall be 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, a disqualifying transfer will be assessed as of the date of the change.

(10) Notwithstanding the above, the following trusts shall not be considered in the resource or income determination process for OSIPM:

(a) A trust containing the assets of a client determined disabled by OSIPM criteria, and created prior to 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 present and accumulated income of the client. The accumulated amount remaining in the trust shall 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. A trust established under this provision enables a client who, because of the level of their income, would have been considered OSIPM-MN and ineligible for paid nursing facility care or waived services, to qualify for OSIPM. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust shall be 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 and containing the present and accumulated income of the client. The accumulated amount remaining in the trust shall 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. A trust established under this provision enables a client who, because of the level of their income, would have been considered OSIPM-MN and ineligible for paid nursing facility care or waived services, to qualify for OSIPM. The trust contains all the client's income. The income deposited into the trust shall be distributed monthly in the following order:

(A) Personal needs allowance.

(B) Reasonable administrative costs of the trust which shall include bank service charges, trustee fees, income taxes attributable to the trust income, preparation of yearly tax returns, copy charges, postage and attorney or tax preparer fees.

(C) Community spouse and family monthly maintenance needs allowance.

(D) Medicare and other private medical insurance premiums.

(E) Other incurred medical care costs that are not reimbursed by a third party. Contributions to reserves for personal liabilities which include but are not limited to child support, alimony, and property and income taxes. Contributions to reserves for the purchase of an irrevocable burial plan on a monthly basis and contributions to a reserve for home maintenance if the client's name remains on the title.

(F) Patient liability not to exceed the cost of waived services or nursing facility care.

(G) Excess amounts will be treated as income to the individual and the transfer OARs will apply.

(d) A trust containing the resources or income of a client who is disabled as defined by OSIPM criteria and whose trust meets the following conditions:

(A) The trust is established and managed by a non-profit association.

(B) A separate account is maintained for each beneficiary.

(C) The trust is established by their parent, grandparent, legal guardian or a court for clients who are disabled.

- (D) Any remaining funds in the trust upon the death of the client will be subject to recovery by the state up to the amount of medical benefits paid on behalf of the client.
- (11) The provisions of this OAR may be waived if the Division determines that denial of benefits would create an undue hardship on the client, based on, but not limited to, the following:
- (a) The local branch office may determine hardship if:
 - (A) The absence of the services requested may result in a life-threatening situation.
 - (B) The client was a victim of fraud or misrepresentation.
 - (b) The Division Administrator or their designee may determine that an undue hardship exists, based on the facts presented.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0550

Unemployment Compensation Benefit

Treat UC benefits as follows:

- (1) Count monthly benefits as unearned income.
- (2) Count all other payments as lump-sum income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0560

Uniform Relocation Act

Treat reimbursements from Title II of Public Law 91-646 (the Federal Uniform Relocation Assistance Act) and from the Real Property Acquisition Policies Act of 1970 as follows:

- (1) For GA and GAM, count as a resource.
- (2) For all other programs, exclude these reimbursements.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0570

USDA Meal Reimbursement

(1) USDA meal reimbursements are cash reimbursements for family day care providers who serve meals. The reimbursements are made by the Department of Education and the amount of the reimbursement is determined by family size and income.

(2) Count USDA meal reimbursements made to child care providers a self-employment income.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, 411.816, 414,042, Ch. 416 & 418

Stats. Implemented: ORS 411.700 & 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

461-145-0580

Veterans' Benefits

(1) Treat veterans' benefits, other than Aid and Attendance and educational benefits, as follows:

(a) Count monthly payments as unearned income.

(b) Count other payments as periodic or lump-sum income.

(2) Treat veterans' Aid and Attendance payments as follows:

(a) For FS and OHP, exclude these payments.

(b) For OSIP, OSIPM, and QMB clients receiving long-term care or Title XIX waived services, treat as follows:

(A) Exclude when determining financial eligibility.

(B) Count as unearned income when calculating monthly benefits or patient liability.

(C) Exclude payments for services not covered by the Division's programs.

(D) Reimbursements paid to the client for costs and services already paid for by the Division are third-party resources and should be recovered from the client. Count any unrecovered third-party resource or payment above the actual cost as lump-sum or periodic income.

(c) For all other programs, treat Aid and Attendance payments as follows:

(A) Exclude payments for services not covered by the Division's programs.

(B) Reimbursements paid to the client for costs and services already paid for by the Division are third-party resources and should be recovered from the client. Count any unrecovered third-party resource or payment above the actual cost as lump-sum or periodic income.

- (3) Treat educational benefits from the Veterans' Administration according to OAR 461-145-0150.
- (4) Exclude payments under Public Law 104-204 to children of Vietnam Veterans who are born with spina bifida.

Stat. Auth.: ORS 411.060, 411.700 & 411.816

Stats. Implemented: ORS 411.060, 411.700 & 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 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

461-145-0582

Victims' Assistance

- (1) Treat payments under Public Law 103-286 to victims of Nazi persecution, and payments under Public Law 103-322 (The Crime Act of 1984) to victims of crime, as follows:
 - (a) For GA and GAM, count these payments as unearned income;
 - (b) For all other programs, exclude these payments.
- (2) For other types of victims' assistance:
 - (a) Treat payments that are considered a reimbursement for a lost item according to OAR 461-145-0440;
 - (b) Treat payments for pain and suffering as personal injury settlements according to OAR 461-145-0400.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0585

Vocational Rehabilitation Payment

- (1) Count Vocational Rehabilitation Maintenance payments for food, shelter and clothing as unearned income.
- (2) Treat Vocational Rehabilitation payments for special itemized needs connected with the evaluation, planning or placement activity as a reimbursement. These special need payments include:
 - (a) Child care;
 - (b) Clothing;
 - (c) Second residence;
 - (d) Special diet;
 - (e) Transportation.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0590

Worker's Compensation

- (1) Count Worker's Compensation received monthly as unearned income.
- (2) Count all other Worker's Compensation payments as periodic or lump-sum income.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0600

Work-Related Equipment and Inventory

- (1) Work-related equipment is property essential to the employment or self-employment of a financial group member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.
- (2) Treat work-related equipment as follows:
 - (a) For ADC-BAS, ADCM (except ADCM-EA) and REF, count the equity value of work-related equipment as a resource.
 - (b) For ADC-EA, ADCM-EA, ERDC, FS and OHP, exclude workrelated equipment.
 - (c) For GA, OSIP, OSIPM, and QMB, exclude the value of equipment needed by a disabled or blind client to complete a plan for self-support, as long as the plan is in effect. For all other equipment, count the equity value of the equipment as a resource.
- (3) Inventory is goods that are in stock and available for sale to prospective customers.
- (4) Treat inventory as follows:
 - (a) For ADC-BAS, ADCM and REF, count the wholesale value of inventory remaining at the end of the month, minus any encumbrances, as a resource.
 - (b) For ADC-EA, ADCM-EA, ERDC, FS and OHP, exclude inventory.
 - (c) For GA, OSIP, OSIPM, and QMB, exclude the value of inventory needed by a disabled or blind client to complete a plan for self-support, as long as the plan is in effect. For all other inventory, count the equity value of the inventory as a resource.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-145-0810

Deemed Assets; Overview

- (1) Deemed assets are the portion of the income and resources of a person not in the financial group used to determine eligibility and benefit level for a financial group member.
- (2) To be eligible for benefits, clients must provide necessary information about all people whose assets are deemed to any member of the financial group.
- (3) To determine countable assets for deeming, use the policy for the program the financial group is applying for.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-145-0820

Deemed Assets; Alien Sponsor

- (1) For all programs except ADCM, OHP, OSIPM, REF and REFM, the branch must determine if a sponsored alien who entered the U.S. as a permanent resident has countable deemed assets from a sponsor. If they do, deem assets from the sponsor for a period of three years following the alien's entry into the U.S. Do not deem the sponsor's assets if the client is one of the following:
 - (a) A Cuban or Haitian entrant.
 - (b) An alien admitted as a refugee, parolee or someone who has been granted political asylum.
 - (c) The spouse or dependent child of the sponsor.
- (2) Use deemed assets as follows:
 - (a) For ADC, ERDC, GA, GAM and OSIP, use the deemed assets to determine the eligibility of the sponsored alien. Use only the deemed assets actually made available to the sponsored alien to determine eligibility and benefit level for other members of the filing group.
 - (b) For ADCM, OHP and OSIPM, count only the assets actually made available to the sponsored alien to determine eligibility and benefit level for the entire filing group.
 - (c) For FS, use deemed assets to determine the eligibility and benefit level for the entire filing group.
- (3) Deem the sponsor's assets whether or not the sponsor lives in the same household as the sponsored alien. Deeming continues for three years from the date of the alien's entry into the U.S., unless another period is specified in the sponsor's affidavit.
- (4) Both the alien and the alien's sponsor are liable for any overpayment that is incurred during the three years after the alien's entry into the U.S., if the overpayment results from the sponsor's failure to provide correct information. However,

if the sponsor can show good cause for withholding the information, the sponsored alien alone remains liable for the overpayment.

(5) For financial groups that consist of both refugees and sponsored aliens, do the following:

(a) First, determine the entire need group's eligibility for ADC-BAS. Do this by comparing the financial group's total countable income (including deemed income from the alien's sponsor) to the ADC-BAS countable income limit. If total countable income is less than or equal to the limit, the benefit group is eligible for ADC-BAS and ADCM-BAS.

(b) If the group is ineligible for ADC-BAS, the next step is to determine if the refugees in the need group are eligible for REF and REFM. Do the following:

(A) Determine how much income is actually available to the entire group (both aliens and refugees) from the alien's sponsor.

(B) Compare the income actually available from the alien's sponsor to the ADC-BAS/REF countable income limit for the number of refugees in the REF/REFM need group.

(C) If the income actually available from the alien's sponsor is less than or equal to the ADC-BAS/REF countable income limit for the number of refugees in the need group, do the following:

(i) Exclude the income available from the alien's sponsor.

(ii) Compare all other countable income of the original financial group (both aliens and refugees) to the ADC-BAS/REF countable income limit for the number of refugees in the need group. If this income is less than or equal to the limit, the refugees are eligible for REF and REFM.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0830

When to Deem an Alien Sponsor's Assets

For all programs except ADCM, OHP, OSIPM, REF and REFM, the sponsor and the sponsor's spouse (if living together) are financially responsible for the alien for a specified period after the alien enters the U.S., unless any of the following is true:

(1) The sponsor is a private or public agency, organization or group.

(2) The sponsor cannot meet the alien's needs. This includes sponsors who receive ADC, REF or SSI benefits.

(3) The sponsor is deceased. The heirs of a deceased sponsor are not responsible for the alien.

(4) The alien becomes disabled or blind under SSA criteria after entry into the United States.

(5) For FS, the sponsor is participating in the FS program.

Stat. Auth.: ORS 411.060, 411.700 & 411.816

Stats. Implemented: ORS 411.700 & 411.816

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

461-145-0840

Calculating Deemed Income From an Alien's Sponsor

For all programs except ADCM, OHP, OSIPM, REF and REFM, use the following process to determine the amount of income deemed from the alien's sponsor and the sponsor's spouse (if living together):

- (1) Determine the unearned income of the sponsor and the sponsor's spouse.
- (2) To determine the earned income of the sponsor and the sponsor's spouse, subtract the following from their countable earned income:
 - (a) For ADC, ERDC, GA and GAM, 20 percent of the earned income, up to \$175.
 - (b) For FS, 20 percent of the earned income.
- (3) Add the earned and unearned income of the sponsor and the sponsor's spouse.
- (4) Subtract the payment standard for the sponsor, spouse, and dependents (if living together) as follows:
 - (a) For ADC and ERDC, use the ADC Payment Standard.
 - (b) For FS, use the countable income limit standard for the size of the sponsor's family.
 - (c) For GA, GAM and OSIP, use the OSIP-AD Payment Standard for one and add 1/2 of the standard for each additional person.
- (5) Subtract the following:
 - (a) For ADC, ERDC and FS, payments to people claimed as dependents on federal tax forms. Additionally for ADC and ERDC, alimony or child support payments.
 - (b) For OSIP, allow a \$20 standard income deduction.
- (6) Count the remainder as follows:
 - (a) For ADC, ERDC and FS, divide the remainder by the number of aliens sponsored by the individual or couple. This is the countable deemed income for each sponsored alien.
 - (b) For GA, GAM and OSIP, the remainder is the countable deemed income for the financial group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-145-0850

Deemed Resource From an Alien's Sponsor

For all programs except ADCM, OHP, OSIPM, REF and REFM, use the following to determine the amount of resources deemed from the alien's sponsor and the sponsor's spouse (if living together):

- (1) Determine the total countable resources of the sponsor and spouse according to the OARs for the program the alien is applying for.
- (2) Subtract the following:
 - (a) For ADC, ERDC, FS, GA, and GAM, \$1,500.
 - (b) For OSIP, the resource limit for an individual, if resources are deemed from the sponsor only, or the limit for a couple, if resources are deemed from the sponsor and a spouse.
- (3) Count the remainder as follows:
 - (a) For ADC, ERDC and FS, divide the remainder by the number of aliens sponsored by the individual or couple. This is the countable deemed resource for each sponsored alien.
 - (b) For GA, GAM and OSIP, the remainder is the countable deemed resource for the financial group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

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 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-145-0860

Deemed Assets, Parent of Minor Parent; ADC, ADCM

For ADC and ADCM, deem the assets of the parents of a minor parent as follows, if they are living together and the minor parent is under age 18, never been married and not legally emancipated.

- (1) For ADC and ADCM, exclude the resources of the parents of the minor parent.
- (2) Deem the income of the parents to the minor parent when the minor parent and their children live with the parents.
- (3) Deem the income of the parents of a pregnant minor to the minor when the minor lives with the parents.
- (4) For ADC, ADCM-BAS and ADCM-EA, consider deemed income available to the minor parent and their dependent child, or the pregnant minor, even if it is not received.
- (5) Determine the amount of the deemed income of the parents as follows:
 - (a) Allow the \$90 earned income deduction.
 - (b) Deduct the needs of the parents and their dependents, living in the same household and not included in the benefit group, at the ADC Payment Standard.
 - (c) Deduct amounts paid to legal dependents not living in the household.

- (d) Deduct payments of alimony or child support.
- (e) Any remaining income is countable deemed income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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 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

461-145-0870

Deemed Assets, Spouse of Nonparent Caretaker Relative; ADC, ADCM

- (1) For ADC and ADCM, deem all the resources of the spouse of a nonparent caretaker relative if the caretaker relative is in the financial group. Treat the resource according to the ADC-BAS OARs for the type of resource.
- (2) Deem the income of the spouse as follows:
 - (a) Deduct the following from the spouse's countable income:
 - (A) The needs of the spouse and their dependents living in the household, who are not in the benefit group, at the ADC Payment Standard; and
 - (B) The \$90 earned income deduction.
 - (b) Count any remaining income as unearned income to the financial group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1997, f. & cert. ef. 7-1-97

461-145-0910

Self-Employment; Overview

- (1) Self-employment is earning income directly from one's own business, trade, or profession, rather than earning a specified salary or wages from an employer.
- (2) Consider a member of the financial group self-employed if they meet one or more of the following criteria:
 - (a) Are independently responsible for obtaining or providing a service or product, and they have costs and expenses necessary for providing a service or product.
 - (b) Independently determine the manner, method, and process of business operations.
 - (c) Have full responsibility for success or failure of the business operation.
- (3) If a client has more than one self-employment business, treat each business separately in determining the costs and income for that business.

- (4) For all programs except ADC, ERDC, FS, REF and REFM, count self-employment income in the month received, but prorate income received on a contractual basis over the period covered by the income.
- (5) For ADC, ERDC, FS, REF and REFM, determine how the self-employment income should be treated (annualized, averaged or as monthly variable) as follows:
 - (a) Annualize the following self-employment income:
 - (A) Income received in less than a 12-month period that is intended as a full year's income.
 - (B) Income from a business operated the entire previous year that is representative of income anticipated for the next year.
 - (b) Average self-employment income:
 - (A) When a financial group begins self-employment and is unable to determine what their income and costs will be for a given period of time.
 - (B) When the income is intended as less than a full year's income and the past year is not representative of income anticipated for the next year.
 - (c) For ADC and FS, the branch may place the group in the MRS (unless specifically excluded per OAR 461-170-0100) if their situation is too new or unstable to establish anticipated income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0920

Self-Employment; Costs

For all programs except ADC, REF and REFM, use this OAR to determine which costs to allow in determining countable self-employment income.

- (1) Allow the necessary costs of producing self-employment income. These costs include, but are not limited to:
 - (a) Labor (wages paid to an employee or work contracted out).
 - (b) Raw materials used to make a product.
 - (c) 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. For FS and OHP, do not allow shelter or utility costs for a self-employment business in the filing group's home.
 - (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 considered part of the business expense.

(i) Charges for telephone service that can be verified as a necessary cost for self-employment.

(j) Meals and snacks provided by family day care providers receiving USDA meal reimbursements for children in their care (including their own). Use the actual cost of the meals if the provider can document the cost. If they cannot document the actual cost, use the following figures:

Breakfast – \$.83

Lunch – \$1.51

Dinner – \$1.51

Snacks – \$.45

(2) Do not allow the following as costs of producing self-employment income:

(a) Business losses from previous months.

(b) 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. Depreciation is a prorated lessening of value assigned to a capital asset 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) Additionally for ADCM and OHP, the costs of real property used as both a home and a business, unless the real property (including utilities) used for business is separate from the dwelling in which the financial group lives.

(3) To determine the necessary self-employment cost of items such as automobiles and real property (including utilities) used for both business and personal use, prorate as follows:

(a) For ADCM, FS and OHP, prorate the costs of real property (including utilities) if a separate office or shop is located on the property used as a home. No expense is allowed if the office or shop is part of the dwelling in which the client lives. For other items, such as automobiles, prorate the portion of the expense that is for business use only.

(b) For ERDC, GA, GAM, OSIP, OSIPM and QMB, prorate the portion of the expense that is for business use only.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 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

461-145-0930

Self-Employment; Determining Countable Income

(1) For all programs except ADC, REF and REFM, use the following to determine countable self-employment income:

- (a) Subtract the cost of producing the self-employment income from gross sales or receipts (including 100 percent of capital gains). For FS, if the financial group has not been involved in self-employment long enough to know these amounts, use estimates. Include any capital gains these financial groups anticipate receiving in the 12 months following the date of application.
- (b) Prorate the balance proportionately among the number of partners if financial group members are involved in a partnership with others not in the financial group. If the financial group can establish another partnership ratio, base the proration on that figure.
- (c) The prorated amount is the countable self-employment income.

(2) For ADC, REF and REFM, the countable self-employment income is the gross sales or receipts.

(3) For FS, if the balance is a negative amount and the client receives or anticipates receiving annual gross farm income of \$1,000 or more, allow the business losses as an exclusion from the following income:

- (a) Nonfarm self-employment income.
- (b) Other earned income.
- (c) Unearned income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 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 9-1997, f. & cert. ef. 7-1-97

461-145-0940

Self-Employment; Commercial Boarding Houses

- (1) Income from commercial boarding houses is self-employment income. For ADC, FS, REF and REFM, payments from lodgers are also self-employment income.
- (2) For all programs except ADC, FS, REF and REFM, allow as a business expense the standard for one in the household/one in the benefit group as a deduction to cover the cost of shelter and food for each boarder.
- (3) For ADC, REF and REFM, do not allow any costs.
- (4) For FS, allow one of the following as a necessary cost of doing business:
 - (a) The cost of the Thrifty Food Plan for a financial group of a size equal to the number of boarders, not to exceed the

payments made by the boarders; or

(b) The documented cost of providing room and meals, if the actual cost is more than the appropriate Thrifty Food Plan. If actual costs are used, exclude only separate and identifiable costs of providing room and meals to boarders. The cost cannot exceed the payment made by the boarder.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1997, f. & cert. ef. 7-1-97

461-145-0950

Self-Employment; Capital Assets

- (1) Capital assets are property that contributes toward earning self-employment income, either directly or indirectly. Capital assets generally have a useful life of over one year and a combined value of \$100 or more.
- (2) For all programs except FS, treat the equity value of all capital assets according to the type of asset it is.
- (3) For FS, exclude capital assets used in a business as follows:
- (a) For non-farm assets, as long as the financial group is actively engaged in self-employment activities;
- (b) For farm assets, for one year from the date the person quit self-employment as a farmer.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.700 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 150

**RETROSPECTIVE/PROSPECTIVE ELIGIBILITY AND
BUDGETING**

461-150-0010

Definitions Used in Retrospective/Prospective Eligibility and Budgeting

(1) *Eligibility* is the decision as to whether a person qualifies, under financial and nonfinancial requirements, to receive program benefits. This decision must be made before budgeting is done.

(2) *Budgeting* is the process of calculating the benefit level after eligibility has been determined.

(3) The *initial month* of eligibility is one of the following:

(a) The first month a benefit group is eligible for a program benefit in Oregon.

(b) For all programs, 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 addition for FS and OHP, the first month of a redetermination or recertification period.

(4) The *ongoing month* is one of the following:

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

(b) For FS, any month in the redetermination period following the initial month of eligibility.

(5) For all programs except ADC-EA and ADCM-EA, the *payment month* is the calendar month for which benefits are issued.

(6) For ADC-EA and ADCM-EA, the *payment period* is 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.

(7) The *budget month* is the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.

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 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

461-150-0020

Prospective Eligibility or Budgeting

- (1) For prospective eligibility or budgeting, the budget month and payment month are the same.
- (2) Use reasonably anticipated information (including known information for the initial month) to determine eligibility and benefit level. Income is reasonably anticipated it is expected to be received or considered to be available in the budget month. To arrive at reasonably anticipated income:
 - (a) The client and worker jointly determine the anticipated amount of income to be counted;
 - (b) Count only income that is reasonably certain to be available, considering the following:
 - (A) The source of the income;
 - (B) The dates the income is paid and how often each payment is received;
 - (C) The amount of each payment. For earned income, this includes the rate of pay, including tips, commissions, etc., and the number of units (hours, weeks or months) used to determine the amount.
- (3) When using prospective budgeting:
 - (a) There is no overpayment based on incorrectly anticipated information unless the client withheld information or provided false information;
 - (b) No supplement is issued based on incorrectly anticipated information.

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.730, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.060

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

461-150-0030

Retrospective Eligibility or Budgeting

- (1) For retrospective eligibility or budgeting, the budget month is the month before the payment month.
- (2) To determine eligibility retrospectively:
 - (a) Use information from the last day of the budget month to evaluate all eligibility factors except income and resources;

- (b) Use information from the entire budget month to evaluate income and resources.
- (3) To determine benefit amount retrospectively, use all information from the entire budget month. Financial information includes income and resources available per OAR 461-140-0020 and OAR 461-140-0040 in the budget month.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.816, 7 CFR 273.21(n)

Stats. Implemented: ORS 411.060, 7 CFR 273.21(n) & (g)(3)

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94

461-150-0041

Use of Prospective or Retrospective; ADCM-MN, ADCM-PLM

Determine how and when to use prospective or retrospective eligibility and budgeting for ADCM-MN and ADCM-PLM as follows:

- (1) For ADCM-MN cases that are not using APR for other program benefits, use OAR 461-150-0040.
- (2) For ADCM-MN and ADCM-PLM cases using APR for other program benefits, budget income so that the anticipated amount is the same for each month of the QRS period per OAR 461-150-0049.
- (3) For ADCM-PLM cases that are not using APR for other program benefits, use prospective eligibility and budgeting per OAR 461-150-0020.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: 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

461-150-0042

Use of Prospective or Retrospective; ADC-EA, ADCM-EA

Determine how and when to use prospective or retrospective eligibility and budgeting for ADC-EA and ADCM-EA as follows:

- (1) For the month of application, use prospective eligibility. This includes clients who leave a filing group because of domestic violence.
- (2) For budgeting, use the information in OAR 461-160-0140 to determine benefit level.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.620, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009 & 414.032

Stats. Implemented: ORS 411.060

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93

461-150-0045

Use of Prospective or Retrospective; ADCM-EXT

Determine how and when to use prospective or retrospective eligibility and budgeting for ADCM-EXT as follows:

- (1) For the first six months, use prospective eligibility. No budgeting is used for the first six months because income is not an eligibility factor.
- (2) If eligibility continues after six months, use prospective eligibility and retrospective budgeting as explained in OAR 461-160-0129.

Stat. Auth.: ORS Ch. 183, 411, 412, 413, 414 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90

461-150-0048

Eligibility and Budgeting; ERDC

For ERDC, the budget month and the payment month are the same. Benefits are paid in the month after the budget and payment month. Use prospective eligibility and budgeting as follows:

- (1) For the initial and ongoing months, use prospective eligibility and prospective budgeting:
 - (a) There is no overpayment based on incorrectly anticipated information unless the client withheld information or provided false information;
 - (b) No supplement is issued based on incorrectly anticipated information.
- (2) Assign income to the budget month per OAR 461-150-0049.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.630, 411.730, Ch. 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.060

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

461-150-0049

Budgeting Income for Cases Using APR

- (1) For cases using APR, budget income so that the anticipated amount is the same for each month of the APR period. To do this, determine what type of income (annualized, educational, temporary, variable or stable) the client anticipates they will receive during the APR period. Then, budget each type of income as follows:
- (a) For income that must be annualized, calculate per OAR 461-150-0090 to arrive at a monthly figure.
 - (b) For educational income, assign the income to the months it is intended to cover, regardless of when it is received. Prorate the income over these months and then average according to section (2) of this OAR.

- (c) For temporary income and for other situations when the child care need will last two consecutive months or less, anticipate the income to be received in the months of child care need and average according to section (2) of this OAR.
- (d) For ongoing variable or stable income, average according to section (2) of this OAR.
- (2) Use the following guidelines to average income using APR:
 - (a) If income history is representative of income the financial group will receive during the APR period:
 - (A) Total the financial group's countable income from the preceding two months and the current month, including income already received and expected to be received in the current month.
 - (B) Divide the total income by three. The resulting figure is the financial group's average monthly income for the APR period.
 - (b) If income history is not representative of the income the financial group will receive during the APR period:
 - (A) The client and worker jointly determine the anticipated amount of countable income to be received in each month of the APR period and total it. For a 4-, 5- or 6-month APR period, only the first 3 months of the period are required to be used in the calculation.
 - (B) Divide the total in (A) by the number of months used in the calculation. The resulting figure is the average monthly income to be used for the APR period.
- (3) Clients who are over income for benefits for an APR period may reapply during a subsequent month of the same APR period. When they reapply, establish a new APR period and recalculate the income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 19-1997, f. & cert. ef. 10-1-97

461-150-0050

Use of Prospective or Retrospective; GA, OSIP, QMB

Determine how and when to use prospective or retrospective eligibility and budgeting for GA, GAM, OSIP, OSIPM and QMB as follows:

- (1) For the initial month, use prospective eligibility and budgeting. Exclude money received from a non-recurring source before the date of application. If any money remains after the date of application, count it as a resource.
- (2) For ongoing months, use prospective eligibility and prospective budgeting for unearned income. Use retrospective budgeting for earned income.
- (3) Deduct from the following month's benefit any unearned income received during the budget month that was not used to reduce the current month's benefit. Supplement the benefit to restore lost benefits if anticipated income is not received.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-150-0055

Eligibility and Budgeting; OHP

(1) For OHP, the budget month is:

(a) For applicants, the initial month of OHP eligibility;

(b) For clients reapplying in the last month of their OHP certification period, and for clients moving from ADCM, GAM or REFM to OHP, the last month of their current eligibility period;

(c) When adding a new person to the filing group, the month the person is to be added.

(2) Determine countable income as follows:

(a) Use income considered available during a month per OAR 461-140-0040;

(b) Do not annualize, convert or prorate income;

(c) For self-employed clients, allow self-employment costs per OAR 461-145-0920;

(d) For the budget month, use the countable income the financial group has received or anticipates receiving and is considered available during the month.

(3) Calculate the financial group's average countable income as follows:

(a) Total the financial group's income from the budget month and the preceding two months;

(b) Divide the total countable income by three. The resulting figure is the financial group's average countable income for the budget month;

(c) Use the financial group's average countable income to determine eligibility for OHP per OAR 461-160-0700.

(4) If the benefit group is determined eligible, changes in income do not affect eligibility during their certification period or until their eligibility otherwise ends.

(5) There is no overpayment or ineligibility based on incorrectly anticipated information unless the client withheld information or provided false information.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95

461-150-0060

Use of Prospective or Retrospective; ADC, ADCM-BAS, FS, REF, REFM

Determine how and when to use prospective or retrospective eligibility and budgeting as follows:

(1) For the initial month:

(a) For cases in the first month of their FS redetermination period that were in MRS last month and will continue to be in MRS, use eligibility and budgeting per section (3) of this OAR.

(b) For all others, use prospective eligibility and prospective budgeting. This includes clients who leave a filing group because of domestic violence and enter a shelter/safe home.

(c) There is no overpayment based on incorrectly anticipated information unless the client withheld information or provided false information. No supplement is issued based on incorrectly anticipated information.

(2) For ongoing months for benefit groups not in MRS, use prospective eligibility and budgeting as follows:

(a) If benefits are ended based on anticipated changes that do not occur, restore benefits back to the first of the payment month using prospective budgeting based on the best information available.

(b) If a case is suspended for one month because of a change that is not expected to continue into the following month.

(c) There is no overpayment based on incorrectly anticipated information unless the client withheld information or provided false information. No supplement is issued based on incorrectly anticipated information.

(3) For ongoing months for benefit groups in MRS:

(a) Use retrospective eligibility and budgeting until there is a break in benefits of one or more calendar months. Use retrospective budgeting even if there is a break of one calendar month if:

(A) A case is suspended for one month because of periodic extra income or some other change that is not expected to continue into the following month; or

(B) A case is suspended for one month for not filing a monthly report and the benefit group files a monthly report for the suspend month before the end of the following month. Treat requests received after the following month as new applications and use prospective budgeting.

(b) Use prospective budgeting for annualized income and prorated educational income.

(c) If the budgeting method changes from prospective to retrospective, treat 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, exclude the income.

(B) If the actual amount received was greater than the anticipated amount, count the difference between actual and anticipated amounts.

(4) Add a new person to an ongoing benefit group in the payment month after the branch office is notified that the person is in the household and has become a member of the filing group. Determine eligibility as follows:

(a) If the person is joining an MRS benefit group, use retrospective budgeting for the benefit group, including the new person's income.

(b) For all others, use prospective budgeting.

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 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

461-150-0070

Prospective Use of Stable Income/Converted

Stable income is income that is the same amount each time it is received. To count stable income for prospective budgeting and eligibility, treat stable income as follows:

- (1) If a financial group receives stable income once a month, use that monthly amount to anticipate what the group's income will be for each month.
- (2) If a financial group receives stable income once a week, convert it to a monthly amount by multiplying it by 4.3. Use the monthly amount to anticipate what the group's income will be for each month.
- (3) If a financial group receives stable income once every other week, convert that biweekly amount to a monthly amount by multiplying it by 2.15. Use the monthly amount to anticipate what the group's income will be for each month.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.630, 411.730, Ch. 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.100

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

461-150-0080

Prospective Use of Income That Varies/Averaged; Not MRS or APR

Variable income is earned or unearned income that is not always received in the same amount. For financial groups not in the MRS and not using APR, do the following to count variable income for prospective eligibility and budgeting:

- (1) For all programs except ERDC, FS and OHP, all varying income must be averaged using the procedure in section (3) of this OAR. For FS, see section (2) of this OAR.
- (2) FS financial groups with variable income can choose either to have their benefit level changed from month to month or to have their income averaged. Do not use the income averaging option for the initial month of eligibility or for the first month of the new redetermination period for FS financial groups defined as destitute per OAR 461-135-0575.
 - (a) For FS financial groups that choose to have their benefit level changed from month to month, do the following:
 - (A) Give the group a form that indicates their anticipated income for each month of the redetermination period.
 - (B) Explain the requirement to report changes.
 - (b) For destitute financial groups, count income for the initial month or the first month of the redetermination period, according to OAR 461-150-0100. Thereafter, allow the financial group to have their benefit level changed from month to month or averaged.
 - (c) For FS financial groups who choose to have their varying income averaged, determine the average per section (3) of this OAR.
- (3) Average varying income as follows:

- (a) If income history is representative of income the financial group will receive during the redetermination period:
 - (A) Total the financial group's income from the preceding two months and the current month, including income already received and income expected to be received.
 - (B) Divide the total countable income by three. The resulting figure is the financial group's average monthly income for the redetermination period.
- (b) If past income is not representative of the income the financial group will receive during the redetermination period:
 - (A) The client and worker jointly determine the anticipated amount of income.
 - (B) Total the financial group's anticipated income from each representative month.
 - (C) Divide the income from (B) by the number of representative months to arrive at the financial group's average income to be used for each month of the redetermination 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 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

461-150-0090

Annualizing Income

- (1) For ERDC and FS, the following income must be annualized:
 - (a) A full year's income that is received in less than a 12-month period. This does not apply to income from work done on an hourly or piecework basis or self-employment. (Examples of people receiving this type of income include school employees and contract employees);
 - (b) Periodic income;
 - (c) Some self-employment income, per OAR 461-145-0910.
- (2) To annualize, do the following:
 - (a) For non-self-employment income, add the income from a 12-month period and divide by 12. If past income is not representative, use anticipated income. The resulting figure is the financial group's annualized income;
 - (b) For self-employment income, annualize:
 - (A) By using the financial group's most recent state and federal income tax forms; or
 - (B) When there will be a substantial increase or decrease in next year's countable self-employment income, by using estimates of next year's anticipated income and costs.
- (3) Use the group's annualized income as an estimate of what their income will be for each month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.100

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

461-150-0100

Initial Month Budgeting of Destitute Filing Groups; FS

For destitute filing groups (per OAR 461-135-0575), use only the following income to determine eligibility and benefit level in the initial month or the first month of the redetermination period:

- (1) Income received from the first of the month through the filing date; and
- (2) Income received after the filing date that is regular and ongoing. Do not use income from a new source anticipated to be received after the filing date.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 155

USE OF PAYMENT STANDARDS TO ESTABLISH NEED

461-155-0010

Use of Payment Standards to Establish Need

- (1) *Need* is the amount at AFS payment standards that represents the client's need for items covered by the benefit.
- (2) *Special needs* are costs in addition to standard allowances. If required, they must be used to determine:
 - (a) Initial eligibility; and
 - (b) Ongoing eligibility for non-waivered GA clients, and non-waivered OSIP and OSIPM clients, in SDSD/AAA facilities and clients in MHDDSD facilities.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.620, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.070

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

461-155-0020

Prorated Standards; Adjusted Number in Household

Prorated standards are used only in the no-adult tables and the non-SSI/OSIP table. The no-adult tables are used when there are no adults in ADC or ADCM (except ADCM-SAC) need groups. Prorated standards are based on the number of people in the need group, compared to the adjusted number in the household group. To determine the adjusted number in the household to apply to the tables, use the total number in the household minus the following:

- (1) Unborns, unless included in the need group.
- (2) Clients receiving long-term care or waived home and community-based care.

- (3) Foster children.
- (4) Live-in attendants who live with the filing group solely to provide necessary medical or housekeeping services and are paid to provide these services.
- (5) Landlords and tenants. A landlord/tenant relationship exists if one person pays another at fair market value for housing. In addition, all the following apply:
 - (a) The filing group must live independently from the landlord or tenant;
 - (b) The filing group must have and use sleeping, bathroom and kitchen facilities separate from the landlord or tenant;
 - (c) If bathroom or kitchen facilities are shared, it must be a commercial establishment that provides either room or board or both for fair market value compensation.
- (6) Additionally for OSIP and OSIPM, do not count recipients of ADC, ADCM, GA, GAM, OHP, OSIP, OSIPM or QMB.

Stat. Auth.: ORS 411.070 & 42 CFR 435.726

Stats. Implemented: ORS 411.070 & 42 CFR 435.726

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

461-155-0030

Income and Payment Standards; ADC-BAS, ADCM-BAS, ADCM-SAC, REF

For ADC-BAS, ADCM-BAS, ADCM-SAC and REF, the income standards are as follows:

- (1) The Countable Income Limit Standard is the amount set as the maximum countable income limit.
 - (a) For need groups containing an adult, use the following table. [Table not included. See ED. NOTE.]
 - (b) Calculate the No-Adult Countable Income Limit Standard as follows:
 - (A) Refer to the Countable Income Limit Standard for need groups with adults. Use the standard for the number of people in the household group.
 - (B) Divide the standard in (A) by the number of people 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 (B) by the number of people in the need group. The result is the standard.
- (2) The Adjusted Income/Payment Standard is used as the adjusted income limit and to calculate cash benefits for need groups with an adult. [Table not included. See ED. NOTE.]
- (3) Calculate the No-Adult Adjusted Income/Payment Standard as follows:
 - (a) Refer to the Adjusted Income/Payment Standard for need groups with adults. Use the standard for the number of people in the household group.
 - (b) Divide the standard in (a) by the number of people 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 (b) by the number of people in the need group.

(d) Add \$12 to the figure calculated in (c).

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070 & 418.045

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

461-155-0050

Payment Standard for AFC and RCF; ADC-BAS, REF

For ADC-BAS and REF,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 & Ch. 414

Stats. Implemented: ORS 411.070

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; ADC-EA, ADCM-EA

(1) The income limit for ADC-EA and ADCM-EA is:

- (a) The ADC-BAS Adjusted Income/Payment Standard for benefit groups receiving services from Adult & Family Services (AFS).
- (b) One hundred percent of the federal poverty level for benefit groups receiving services from Community Action Agencies (CAAs).

(2) ADC-EA benefits are limited to the following:

- (a) The minimum amount necessary to meet the emergent need.
- (b) Except for clients listed in section (2)(c) of this OAR, the maximum ADC-EA benefit amount for the 30-day eligibility period is \$350.
- (c) The maximum ADC-EA benefit amount for the 30-day eligibility period is:
 - (A) \$7,200 for services provided by Community Action Agencies to stabilize homeless benefit groups.
 - (B) \$1,200 for services needed to stabilize benefit groups whose emergent need is the result of domestic violence, fire,

or natural disaster.

- (d) The amount of help needed to return a family to their state of former residence. The actual costs cannot exceed the ADC-EA maximum benefit amount.
 - (e) Payments for food cannot exceed the maximum FS allotment by household size.
- (3) For ADCM-EA, the payment limit is the cost at AFS medical payment rates needed to provide emergent medical care. Other ADCM, OSIPM or REFM coverage will be used whenever possible, instead of ADCM-EA.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070 & 418.045

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

461-155-0095

Income Standard; ADCM-EXT

- (1) For benefit groups whose eligibility continues after the first six months, use this Adjusted Earned Income Standard to determine eligibility for the 8th through 12th months of benefits.
- (2) The Adjusted Earned Income Standard is as follows. It is 185 percent of the 1997 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

Hist.: 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 9-1991, f. 3-29-91, cert. ef. 4-1-91; 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 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; Suspended by AFS 8-1997(Temp), f. & cert. ef. 7-1-97

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

461-155-0110

Income Standard; OSIPM-MN

For OSIPM-MN, the Adjusted Income Standard is 133.3 percent of the State's ADC-BAS Adjusted Income/Payment Standard. [Tables not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-155-0130

Income Standard; ADCM-PLM

The Adjusted Income Standards for ADCM-PLM are as follows:

(1) The Adjusted Income Standard for pregnant females and children under age 6 is 133 percent of the 1996 federal poverty level.

ADCM-PLM Adjusted Income Standard Pregnant Females and Children Under Age Six

No. in Need GroupAmount

1 \$ 858

2 1,148

3 1,439

4 1,729

5 2,019

6 2,310

7 2,600

8 2,891

9 3,181

10 3,471

Each additional person 290

(2) The Adjusted Income Standard for children born after September 30, 1983 who are age 6 or older is 100 percent of the 1996 federal poverty level.

ADCM-PLM Adjusted Income Standard Children Age Six or Older

No. in Need GroupAmount

1	\$645
2	863
3	1,082
4	1,300
5	1,518
6	1,737
7	1,955
8	2,173
9	2,392
10	2,610
Each additional person 218	

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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 9-1991, f. 3-29-91, cert. ef. 4-1-91; 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 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

461-155-0150

Child Care Payment Rates and ERDC Copay Standard

These child care payment rates apply to ADC-BAS, ERDC, JOBS, JOBS Plus, OFFSET and REF.

- (1) The following definitions apply to the child care rates:
 - (a) Infant: A child aged birth through 12 months.
 - (b) Toddler: A child aged 1 year through 30 months.
 - (c) Preschool Child: A child aged 31 months through 5 years.
 - (d) School Child: A child aged 6 years or older.
 - (e) Special Needs Child: A child who meets the age requirement of the program (ADC or ERDC) and who requires a level of care over and above the norm for their age due to a physical, behavioral or mental disability.
- (A) The disability must be verified by one of the following:
 - (i) A physician, nurse practitioner, licensed/certified psychologist or clinical social worker.
 - (ii) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education

Programs.

(iii) Eligibility for SSI.

(B) The need for a higher level of care must be determined by the provider.

(2) The following definitions apply to the types of care specified in the child care rate charts:

(a) *Family*: Child care provided in the provider's own home. This rate also applies when care is provided in the home where the child lives.

(b) *Group*: Child care provided in a residential dwelling that is certified by the Child Care Division as a *Group Child Day Care Home*. To earn this designation, the facility must be inspected, and both the provider and facility are required to meet certain standards not required of a family provider.

(c) *Center*: Child care provided in a facility that is not located in a residential dwelling. The facility must either be certified by the Child Care Division or exempt per OAR 414-300-0000.

(3) The monthly limit for child care payments is the lesser of the following:

(a) The AFS monthly rate for the type of care and area per section (4) of this OAR; or

(b) The allowed child care hours per OAR 461-160-0040, multiplied by the AFS hourly rate for the type of care and area per section (4) of this OAR; or

(c) Additionally for ADC, ERDC-BAS and REF:

(A) Work hours multiplied by 125 percent multiplied by the hourly rate for the type and area of care. For ERDC-SBG, the client's anticipated class attendance hours multiplied by two, plus work hours, then the total multiplied by 125 percent, multiplied by the hourly rate for the type and area of care; or

(B) For clients in employment that does not pay an hourly wage or salary, and are past the start-up phase per OAR 461-135-0400, the limit is one hour of child care for each hourly equivalent of the state minimum wage anticipated to be earned, multiplied by 125%, multiplied by the hourly rate for the type and area of care.

(4) The allowed child care rate is the lesser of the following:

(a) The actual rate charged by the child care provider; or

(b) The AFS rate for the type of care provided.

(c) In addition, providers must bill at an hourly rate for children usually in care less than 158 hours a month.

(5) The following are the child care rates. The rates are 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 (i.e., hourly or monthly).

(a) [Table not included. See ED. NOTE.] Zip Codes for Group Area A: [Table not included. See ED. NOTE.]

(b) [Table not included. See ED. NOTE.] Zip Codes for Group Area B: [Table not included. See ED. NOTE.]

(c) [Table not included. See ED. NOTE.] Zip Codes for Group Area C: [Table not included. See ED. NOTE.]

(6) The ERDC Copay Standard is as follows: [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

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 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

461-155-0190

Income and Payment Standards; FS

- (1) The FS Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]
- (2) The FS Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.070

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

461-155-0210

Maintenance Standard; GA, GAM

- (1) There is no countable income standard for GA or GAM.
- (2) The standard includes shelter, food and energy assistance. Effective July 1, 1997, the Maintenance Standard is \$292 for a one-person benefit group (including clients in room and board) and \$584 for a two-person benefit group.
- (3) Effective July 1, 1997, the maintenance standard for all GA and GAM clients in Adult Foster Care (AFC), a Residential Care Facility (GCH/RCF), satellite apartments, or MHDDSD Substitute Homes is \$275 for room and board, plus \$39 personal allowance for clothing and personal incidentals.
- (4) For GA and GAM clients in nursing facilities, \$30 is allowed for clothing and personal incidentals.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-155-0225

Income Standard; OHP

The Countable Income Standards for OHP are as follows:

- (1) The Countable Income Standard for pregnant females and children under age 6 is 133 percent of the 1997 federal poverty level. [Table not included. See ED. NOTE.]
- (2) The Countable Income Standard for all persons except those in section (1) of this OAR is 100 percent of the 1997 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060 & 414.025(2)(u)

Stats. Implemented: ORS 411.070

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

461-155-0235

OHP Premium Standards

For OHP, use the following to determine the amount of the monthly premium for the filing group:

- (1) Determine the number of persons in the OHP need group per OAR 461-110-0630.
- (2) Determine the financial group's average monthly income per OAR 461-150-0055.
- (3) Identify the number of Health Plan New/Noncategorical (HPN) clients in the benefit group who are required to pay a premium per OAR 461-135-1120.
- (4) Determine the amount of the monthly premium from the following table: [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060 & 414.025(2)(u)

Stats. Implemented: ORS 411.070

Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97

461-155-0240

OHP Premium Standards

For OHP, use the following to determine the amount of the monthly premium for the filing group:

- (1) Determine the number of persons in the OHP need group per rule 461-110-0630.
- (2) Determine the financial group's average monthly income per rule 461-150-0055.
- (3) Identify the number of Health Plan New/Noncategorical (HPN) clients in the benefit group who are required to pay a premium per rule 461-135-1120.

- (4) For OHP filing groups that began a certification period during the months of January through March 1996, determine the amount of the monthly premium from **Table 1**.
- (5) For OHP filing groups that begin a certification period on or after April 1, 1996, determine the amount of the monthly premium from **Table 2**.

[ED. NOTE: The Tables referred to in the above rule is not printed in the Oregon Administrative Rules Compilation. Copies are available from Adult and Family Services Division.]

Stat. Auth.: ORS 414.025(2)(u)

Stats. Implemented: ORS 414.036

Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96

461-155-0250

Income and Payment Standard; OSIP, OSIPM

- (1) For OSIP and OSIPM (except OSIPM-MN) in long-term care and in waived nonstandard living arrangements, the Countable Income Limit Standard is 300 percent of the SSI standard. Use the one-person SSI standard for an individual who has no income and is living alone in the community to compute the Countable Income Limit. Other OSIP and OSIPM cases do not have a countable income limit.
- (2) The non-SSI OSIP and OSIPM (except OSIPM-MN) adjusted income standard takes into consideration the need for housing, utilities, food, clothing, personal incidentals and household supplies. The standard is itemized as follows:
- (3) The payment standard is used as the adjusted income limit and to calculate cash benefits for non-SSI OSIP cases. The OSIP-AB Adjusted Income/Payment Standard includes a transportation allowance. The total standard is:
- (4) The payment standard for SSI/OSIP cases living in the community is either the SIP amount or the ESB amount. The SIP (Supplemental Income Payment) is a need amount added to any other special or service needs to determine the actual payment. The ESB (Excess SSI Benefit) is a resource amount used to offset special and service need payments:
- (a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than \$20:
- (b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is \$20 or more:
- (c) The SSI/OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, add \$20 to the SIP amount.
- (d) For SSI couples in AFC, RCF or ALF, add an amount to each person's SIP entry which equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.
- (5) For OSIP and OSIPM clients in long-term care, the following amounts are allowed for clothing and personal incidentals:
- (a) For clients who receive a VA pension based on unusual medical expenses (UME), \$90 is allowed.
- (b) For all other clients, \$30 is allowed.

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the Adult and Family Services

Division.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-155-0270

Payment Standard for NSLA; OSIP, OSIPM

For all OSIP and OSIPM cases in nonstandard living arrangements, the OSIP/ OSIPM Payment Standard is allocated as follows: [See ED. NOTE.] For SSI/SSB combination cases: [See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the Adult and Family Services Division.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-155-0290

Income Standard; QMB-BAS

The Adjusted Income Standard for QMB-BAS is as follows. It is 100 percent of the 1997 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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

461-155-0291

Income Standard; QMB-DW

The Adjusted Income Standard for QMB-DW is as follows. It is 200 percent of the 1997 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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

461-155-0295

Income Standard; QMB-SMB

The Adjusted Income Standard for QMB-SMB is as follows. It is 120 percent of the 1997 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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

461-155-0300

Shelter-in-Kind Standard

- (1) For ADC-BAS, ADCM (except ADCM-EA), REF, and REFM, the Shelter-in-Kind Standard is 30 percent of the Payment Standard, rounded down to the nearest dollar.
- (2) For OSIP, OSIPM, and QMB, the Shelter-in-Kind Standard is:
 - (a) For a single person:
 - (A) Living alone, \$292 for total shelter or \$175.20 for housing costs only.
 - (B) Living with others, \$129.77 for total shelter or \$77.86 for housing costs only.
 - (b) For a couple:
 - (A) Living alone, \$349 for total shelter or \$209.40 for housing costs only.
 - (B) Living with others, \$107 for total shelter or \$64.20 for housing costs only.

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the Adult and Family Services Division.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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

461-155-0310

Special Shelter Allowance; ADC-BAS, REF

The Special Shelter Allowance is included in the ADC-BAS and REF Payment. It is an advance of the ERA refund per ORS 418.172:

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

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 412, 413 & 414

Stats. Implemented: ORS 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92

461-155-0350

Minimum Contribution Standard

The Minimum Contribution Standard is used to determine which portion of a lodger's income is excluded for ADC, ADCM, REF and REFM. [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-155-0360

Cost-Effective Health Insurance Premiums

For ADCM (except ADCM-EA), GAM, OHP, OSIPM (except OSIPM-MN with a spend-down) and REFM, use the following to determine if an employer-sponsored health plan is cost-effective:

- (1) Determine the premium amount for employer-sponsored health insurance paid by a member of the household group.
- (2) Determine the maximum cost-effective premium amount for members of the benefit group from the following tables: [Tables not included. See ED. NOTE.]
- (3) The insurance is cost effective if the employee's share of the premium is equal to or less than the amount in section (2) of this OAR.
- (4) If the health-insurance premium is cost effective, the Division will reimburse the actual amount of the premium, not to exceed the cost-effective amount for the number of persons in the benefit group who are covered by the insurance.

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-155-0500

Special Needs; Overview

- (1) For ADC-BAS, ADCM (except ADCM-EA), GA, GAM, OSIP, OSIPM, REF and REFM, special needs are items that are not included in the basic standard for each program. They may be one-time needs or ongoing needs.
- (2) Ongoing special needs are needs that last several months at a fixed cost. (Examples are special diets and shelter exceptions.) Use ongoing special needs to determine eligibility and benefit amount for clients who are in an MHDDSD facility or non-waivered GA clients in an SDSD/AAA facility. For all other clients, use ongoing special needs only in the post-eligibility treatment of income process.
- (3) Some special need items replace the standard allowances and do not change the standard payment. No additional payments are made for these items (e.g., room and board or adult foster care).
- (4) To be eligible for a special need item, clients must have no other available resources to meet the need (excluding resources used in determining eligibility).
- (5) Authorize special needs for:

(a) One-time needs for the following:

- (A) Household equipment and furniture.
- (B) Minor home repairs.
- (C) Moving costs.
- (D) Property taxes.
- (E) Transportation costs.

(b) Ongoing needs for the following:

- (A) Adult foster care (AFC).
- (B) Cooperation incentive supplement.
- (C) Food for guide dogs and special assistance animals.
- (D) Laundry allowances.
- (E) Residential care facility (RCF)/(ALF).
- (F) Restaurant meals.
- (G) Room and board.
- (H) Shelter exceptions.
- (I) Special diet allowances.
- (J) Telephone allowances.

(6) For GA, GAM, OSIP and OSIPM, allowance of a special need must be associated with the relocation of a client from a nursing facility or the diversion of a client from the need for nursing facility care. The provision of the special need may, if not associated with direct relocation or diversion activities, be allowed if the special need allowance will keep the individual from requiring more costly services or will remove the need for the client to access paid services.

(7) Clients must pursue all natural and organized support resources, such as family, friends, neighbors, the Salvation Army, and other United Way services for example, before payment is made for a special need item.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-155-0510

Special Need in Combined ADC/OSIP/REF 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 Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-155-0520

Special Need; Adult Foster Care (AFC)

(1) Adult foster care (AFC) is a community-based living situation for clients.

(2) Special need allowances for AFC are limited to clients in facilities licensed by MHDDSD.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.070

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

461-155-0525

Special Need; Cooperation Incentive Supplement

(1) The Cooperation Incentive Supplement is a monthly special need added onto the ADC-BAS Adjusted Income/Payment Standard. To qualify for the payment, the client must be an ADC-BAS recipient and meet the requirements of OAR 461-135-0210. [Table not included. See ED. NOTE.]

(2) Use the following steps to calculate the No-Adult Cooperation Incentive Special Need standard:

(a) Refer to the Cooperation Incentive Special Need standard for need groups with adults. Use the standard for the number of people in the household group.

(b) Divide the standard in (a) by the number of people in the household group. Round this number to the next lower whole number if the figure is not a whole number.

(c) Multiply the figure from (b) by the number of people in the need group.

(3) In addition, the Cooperation Incentive is given as a Refugee Equalization Allowance to ensure that refugees receiving cash assistance from the Division through the REF program receive the same amount of combined cash and FS benefits as those who are receiving ADC benefits. REF clients receive this monthly special need without having to meet the requirements of rule 461-135-0210.

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070, 418.040 & 418.100

Hist.: 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 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-155-0530

Special Need; Food for Guide Dogs and Special Assistance Animals

For OSIP and OSIPM, allow a food allowance for guide dogs and special assistance animals. The maximum amount to be authorized is established yearly based on average costs incurred by Schools for Guide Dogs. Authorization of this special need must be based on a proven medical need to sustain the client's independence.

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.111, 411.630, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.070

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

461-155-0540

Special Need; Food Stamp Supplement

For GA clients who receive FS benefits and have no utility expenses, allow an FS supplement allowance of \$48.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

Hist.: 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; Suspended by AFS 8-1997(Temp), f. & cert. ef. 7-1-97

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

461-155-0560

Special Need; Household Equipment and Furniture

For GA, OSIP and OSIPM, repair or replace household equipment or furniture for clients who are renters, homeowners, buyers, or holders of a life estate and are unable to obtain the furniture without cost. Authorize payment at the lowest possible cost that will provide adequate furnishings.

- (1) For the purposes of this rule, household equipment includes bedding, beds, cooking stove, refrigerator, and washers and dryers.
- (2) Additional household items may include cooking utensils, tables, chairs, and chests of drawers when a client is destitute due to a natural catastrophe (such as a flood or fire).
- (3) Furniture will not be purchased for clients residing in Residential Care Facilities, Specialized Living Facilities, unless the Specialized Living Facility is apartment based, or Adult Foster Homes.
- (4) Furniture may be purchased for clients living in Assisted Living Facilities. However, the purchase will not be based on facility preference, but on the lowest possible cost that will provide adequate furnishings.

(5) Special household adaptive equipment may be purchased if the needed item is not covered by the medical card.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.630, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 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 12-1993, f. & cert. ef. 7-1-93

461-155-0580

Special Need; Laundry Allowances

(1) OSIP and OSIPM clients who are receiving SSI or waived services, 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 nursing facilities, Residential Care Facilities, Adult Foster Homes, Specialized Living Facilities, unless the Specialized Living Facility is apartment based, or Assisted Living Facilities.

(2) This allowance will not exceed an amount required to wash and dry the laundry.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.630, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 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

461-155-0600

Special Need; Minor Home Repairs

For ADC, ADCM, REF and REFM, approve minor home repairs, household equipment or furniture costs, moving costs, or payment of property taxes only through ADC-EA. For GA, OSIP and OSIPM, allow minor home repairs for homeowners or buyers as a one-time special need within the following limits:

- (1) The repairs must be needed:
 - (a) To remove a physical hazard to the health and safety of the client; or
 - (b) To accommodate the physical condition of the client.
- (2) The repairs must cost less than moving to another home.
- (3) Limit all repairs and replacements to the lowest possible cost that will provide adequate facilities. The client must provide three competitive bids for the repairs, unless getting three bids is unfeasible (e.g., bidders are unavailable).
- (4) Before approving payment for minor repairs or new installations, consider the use value. Determine if it is a sound social plan for the client to remain in the house. Providers of the minor repairs or new installations must ensure that the work being completed meets the current building codes.

(5) Repairs or replacements include, but are not limited to:

(a) Electrical wiring:

(A) To avoid condemnation;

(B) To remove a definite fire or shock hazard as documented by appropriate public officials;

(C) Do not include conversion to electrical space heating.

(b) Plumbing:

(A) Toilets and sinks;

(B) Cleaning or replacing septic tanks or cesspools;

(C) Installing sewer connections from house to street (not sewer installation), if required by the creation of a new sewer district or the extension of an existing district;

(D) Do not approve the costs of plumbing items if the house is not already equipped with these items. However, a toilet may be provided when required by the creation of a sewer 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:

(A) Repair heating stoves, furnaces and water heaters if at all possible;

(B) If repair is not possible, replace with the least expensive adequate equipment.

(e) Repair roofs;

(f) Repair or replace steps and repair (but not replace) floors.

(6) Clients with life estates are not eligible for this special need allowance. The person who will benefit from the life estate, following the death of the client, is considered responsible for the minor home repairs.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 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

461-155-0610

Special Need; Moving Costs

(1) For GA, OSIP and OSIPM, allow moving costs as a one-time special need.

(2) Allow moving costs if:

(a) The client cannot move without cost;

(b) Moving is essential to provide nonhazardous housing:

(A) "Hazardous" housing means a building so deteriorated and unsafe that the proper authorities have determined it to be uninhabitable or subject to condemnation;

(B) If no official certification can be obtained, the condition of the dwelling must have been seen by a Division employee and documented in the case record.

(c) The client has been evicted for reasons other than their own neglect or failure to make rent or house payments;

(d) Moving is less costly than repairing the current housing for homeowners or buyers;

(e) Limit payment to the least expensive means possible, such as borrowing or renting a trailer or pick-up.

(3) For GA, do not authorize expenses to return the client to a state of former residence.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91

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 Division'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 Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.630, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 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 12-1993, f. & cert. ef. 7-1-93

461-155-0630

Special Need; Residential Care Facilities (RCF)/Assisted Living

(1) Residential care facilities (RCF)/Assisted Living are community-based living situations for clients.

(2) Special need allowances for RCF/Assisted Living are limited to clients in facilities licensed by MHDDSD.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.070

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

461-155-0640

Special Need; Restaurant Meals

(1) To receive the restaurant meals special need, OSIP and OSIPM clients who are receiving SSI or waived services and GA and GAM clients must have proven medical and nutritional needs that cannot be met with meals purchased with food stamps.

(2) Clients living in their own homes who are unable to prepare their own meals, but are eligible for FS, may have their meals prepared by attendants that volunteer or are compensated by the SDSD In-Home Services program. Clients may also receive, if eligible, Meals on Wheels services to supplement their diet.

(3) The payment standard for restaurant meals is \$60 per month.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.630, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.070

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

461-155-0650

Special Need; Room and Board

(1) For GA, GAM, OSIP and OSIPM, "room and board" means a client purchases meals and shelter from a commercial provider who offers only room and board, with no additional services.

(2) Use the standard allowance for room and board if:

(a) No cooking facilities are available and it is not practical for the client to move;

(b) No member of the financial group is able to keep house; or

(c) The client requires care or training not available near the home.

(3) Room and board payment is established on a statewide standard based on the cost of an adult maintaining an independent living situation.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-155-0660**Special Need; Shelter Exceptions**

(1) OSIP and OSIPM clients living in long-term care facilities, and GA and GAM clients, are not eligible for the standard shelter allowances. However, for OSIP and OSIPM clients who are receiving SSI or waived services, allow a special shelter allowance in addition to the payment for care if all the following are true:

- (a) The client enters a hospital, state psychiatric institution, nursing home, RCF, ALF, SLF.
- (b) There is no other way for the client to maintain their rental property or home while they receive medical care.
- (c) The agency-approved medical authority believes the client can be cared for in their home within six months.
- (d) The Division service worker finds the client's property fits the needs for the client's home care.
- (e) Arrangements for suitable home care are within agency standards.

(2) If an exception is authorized for a client meeting the criteria in section (1) of this rule, allow actual costs for utilities and rent or mortgage costs.

(3) Clients living in the community and receiving SSI or waived services are eligible for a special payment above the standard shelter allowance based on the following criteria:

- (a) Clients must provide evidence that the cost of their shelter, above the OSIP standard, is based on costs associated with accessibility and/or use by individuals with a disability.
- (b) All clients, with the exception of clients with mortgage or home contract payments, must apply for HUD subsidized housing.
- (c) Once a client has met the criteria in sections (3)(a) and (b) of this rule, they will receive a shelter exception based on the difference between the OSIP shelter standard and the HUD standard or actual costs, whichever is less, specific to the client's living situation. This special need will be authorized only for the period of time prior to gaining HUD housing.
- (d) Clients who refuse HUD housing will no longer be eligible for a shelter exception, unless the housing that is offered is not suitable related to accessibility and/or use by individuals with a disability. Clients must also take all the necessary actions to be maintained as active on the HUD lists.
- (e) Clients with mortgages or home contracts must meet the criteria of section (3)(a) of this rule. They will receive a shelter exception based on the difference between the OSIP shelter standard and one-and-one-half times the HUD standard or actual costs, whichever is less, specific to the client's living situation.
- (f) Clients who are residing with their spouse, including clients receiving services through the Spousal Pay program, excluding minor dependent children, must meet the criteria in sections (3)(a) and (b) of this rule and must have their shelter exception based on half of the total monthly cost of the home.
- (g) Clients requiring live-in attendants may be eligible for a shelter exception if the cost of their shelter is higher because of the need for the live-in attendant.

(4) Costs associated with utilities may be added to the cost of rent or mortgage. Clients may use actual utility costs or they may use the OSIP utility standard in the calculation.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

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

461-155-0670

Special Need; Special Diet Allowance

(1) For ADC-BAS, ADCM (except ADCM-EA), GA, GAM, OSIP, OSIPM, REF andREFM, clients are not eligible for a special diet allowance if they are receiving any of the following:

- (a) Room and board;
- (b) RCF/ALF;
- (c) Long-term care;
- (d) AFC;
- (e) An allowance for restaurant meals;
- (f) A commercial food preparation diet.

(2) ADC-BAS, ADCM (except ADCM-EA), GA, GAM, REF and REFM clients, and OSIP and OSIPM clients receiving SSI or long-term care services in the community, are eligible for a special diet allowance if they are in an imminent life-threatening situation. The situation must be verified by medical documentation.

(3) Calculate the amount of a special diet allowance as follows:

(a) For ADC-BAS, ADCM (except ADCM-EA), REF and REFM, the difference between the actual cost of the special diet and a prorated share of the FS benefit for the appropriate number of clients in the benefit group;

(b) For GA, GAM, OSIP and OSIPM, 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; or
- (B) A maximum of \$300 per month, or an exceptional amount authorized by the SDSD 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, which must include documentation of the client's medical need by an agency-approved medical authority.

(5) Each diet allowance must be reviewed at six month intervals.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.630, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 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

461-155-0680

Special Need; Supplemental Telephone Allowance

- (1) Grant a telephone allowance for SSI eligibles and clients receiving in-home services if they are unable to leave their residence without assistance due to a documented medical condition.
- (2) Allow costs as follows:
 - (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 (e.g., TDD or emergency response system);
 - (c) A one-time installation charge.
- (3) All clients granted a telephone allowance must apply for a payment through the Oregon Telephone Assistance Program (OTAP). In addition, clients requesting payment for telephone installation must apply for Link-Up America (LUA). If the LUA credit does not cover the installation cost, the Division may provide a maximum supplement payment of \$30.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640 & 411.816

Stats. Implemented: ORS 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 29-1994, f. 12-29-94, cert. ef. 1-1-95

461-155-0690

Special Need; Transportation Costs

- For GA and OSIP, approve transportation costs for work search or give bus tickets for bona fide job interviews. Do not make a transportation payment once the client gains employment. In addition, use the following criteria:
- (1) Authorization must be given before the transportation need.
 - (2) Pay for the least expensive method of transportation available (private car or common carrier, such as bus, train, or airline).
 - (3) Allow transportation costs at \$.08 per mile if transportation is by automobile. Allow actual cost for use of public transportation.
 - (4) The cost per mile rate for private vehicles includes operating costs, routine vehicle maintenance, car payments, and parking.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 160

DETERMINING FINANCIAL ELIGIBILITY AND CALCULATING BENEFIT LEVEL

461-160-0010

Use of Resources in Determining Financial Eligibility

A countable resource is the available resource (per OAR 461-140-0020) remaining after allowing exclusions per administrative OAR on treatment of specific types of assets. Use countable resources to determine eligibility as follows:

- (1) For ADC-BAS, ADCM (except ADCM-EA), ERDC, FS, GA, GAM, QMB, REF and REFM, a need group is not eligible for benefits if the financial group has countable resources above the need group resource limit.
- (2) For ADC-EA and ADCM-EA, if a financial group has countable resources, use them to reduce benefits.
- (3) For OHP:
 - (a) Need group members who are Health Plan New/ Noncategorical (HPN) per OAR 461-135-1100 are not eligible if the financial group's countable resources are above the limit.
 - (b) If an HPN client is determined eligible, changes in resources do not affect eligibility during their certification period or until their eligibility otherwise ends.
- (4) For OSIP and OSIPM, if a financial group has countable resources above the resource limit, treat the resources above the limit as follows:
 - (a) If the excess resources plus other countable income are above one month's Payment Standard for the need group, the benefit group is not eligible for benefits.
 - (b) If the excess resources plus other countable income do not exceed one month's Payment Standard, use them to reduce benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0015

Resource Limits

(1) For ADC-BAS, ADCM-BAS, ADCM-SAC and REF, the resource limit is:

- (a) \$10,000 for need groups with at least one JOBS participant who is progressing in their self-sufficiency plan.
- (b) \$10,000 for need groups with at least one member who is working under a JOBS Plus agreement.
- (c) \$2,500 for all other need groups, including all ADC applicants.

(2) For ADC-EA and ADCM-EA, all countable resources must be used to meet the emergent need.

(3) For ADCM-EXT, ERDC and REFM-BAS, there is no resource limit.

(4) For OSIPM-MN, the resource limit is \$2000 for one person, \$3,000 for a two-person need group and \$50 for each additional person in the need group.

(5) For FS, the resource limit is:

- (a) \$3,000 for need groups with at least one member who is age 60 or over.
- (b) \$10,000 for need groups with at least one member who is working under a JOBS Plus agreement.
- (c) \$2,000 for all other need groups.

(6) For GA and GAM, the resource limit is \$1,500 for each need group, of which no more than \$50 can be in the form of cash, bank accounts, stocks, bonds and other securities, including the equity value of any life insurance benefit.

(7) For OHP:

- (a) There is no resource limit for children born after September 30, 1983, or pregnant women.
- (b) The resource limit for all members of the need group who are Health Plan New/Noncategorical per OAR 461-135-1100 is \$5,000.

(8) For OSIP and OSIPM (except OSIPM-MN), the resource limit is as follows:

- (a) \$2,000 for a one-person need group or \$3,000 for a two-person need group.
- (b) \$1,000 for a grandfathered OSIP need group. The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(9) For QMB, the resource limit is \$4,000 for a one-person need group or \$6,000 for a need group containing two or more people.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0020

Use of Income; Overview

- (1) Countable income is the amount of available income (per OAR 461-140-0040) remaining after allowing exclusions.
- (2) Income deductions are specified amounts subtracted from countable income.
 - (a) The dependent care, medical and FS shelter deductions are based on the financial group having a cost for the item.
 - (b) The standard deduction and earned or unearned income deductions are based on the type of countable income.
 - (c) The FS child support deduction is based on the financial group making payments for court-ordered support.
- (3) Adjusted income is countable income minus income deductions.

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 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 19-1997, f. & cert. ef. 10-1-97

461-160-0030

Overview of Costs

- (1) Costs are bills incurred by the client, that the client has a legal responsibility to pay.
- (2) Do not allow the following costs:
 - (a) Any cost paid by someone outside the filing group through a reimbursement, vendor payment, or in-kind benefit.
 - (b) Any cost paid by a person or company outside the financial group or that is written off by a medical facility. These are referred to as third-party payment. For OSIPM-MN, if the amount of an anticipated reimbursement for medical costs is unknown, allow the full amount of the medical costs for spend-down.
 - (c) Any cost for a service provided by someone in the filing group, such as child care provided by the father while the mother works.
 - (d) Costs used as an income deduction in one budget month or averaged over several months cannot be allowed again.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0040

Dependent Care Cost That Can Be Allowed

(1) For ADC, ADCM, ERDC, FS, JOBS, JOBS Plus, OFFSET, REF and REFM, allow dependent care cost only if all the following are true:

(a) The dependent:

(A) Lives with the filing group.

(B) Is included in the benefit group or receives SSI.

(C) Requires such care.

(b) The dependent care provider:

(A) Is not in the filing group.

(B) Is not the dependent's biological, adoptive or step-parent, whether or not they are the custodial parent.

(c) Additionally for ADC-BAS, ADCM-BAS, ERDC-BAS, REF and REFM, the caretaker relative must be employed in the month dependent care is needed.

(2) Determine allowed dependent care hours as follows:

(a) For ADC, ERDC-BAS, FS and REF, allowed dependent care hours are the number of hours of care necessary for clients to maintain their job (including work under a JOBS Plus agreement). The maximum dependent care hours will be the hours when a child is not in school or other free care situation and the client is working, commuting or on a meal break. Additionally for clients working under a JOBS Plus agreement, allow child care for any job search hours that the employer pays as work hours.

(b) For ERDC-SBG, allowed child care hours are the number of hours of child care necessary for clients to maintain their education, training and employment. The maximum child care hours are the hours when a child is not in school or other free care situation and the client is attending class, studying, working, commuting or on a meal break.

(c) Additionally for ADC, ADCM, ERDC, FS and REF, allow up to five days per month when child care is scheduled, but not used, and the provider charges for the time.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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 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

461-160-0055

Medical Costs that can be Allowed

For FS clients who are elderly or disabled, GA, OSIP and OSIPM, use the following to determine medical costs that can be allowed:

(1) Allow costs for health insurance premiums, deductibles and coinsurance. For OSIPM, health insurance premiums

paid in a lump-sum (such as quarterly or annually) may be prorated over the months covered by the premium.

(2) Allow costs for services that are either:

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Are other medical necessities approved by the Division.

(3) Allowable services and deductions include, but are not limited to, the following:

(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, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) For FS, also include costs for services such as:

(A) Nursing care, nursing home care, and hospitalization, including payments for people who were members of the household group immediately prior to entering a hospital or nursing home certified by the State.

(B) Maintaining an attendant, home health aid, housekeeper, or dependent care services due to age or illness, including an amount equal to a one-person FS benefit group when the client furnishes the majority of an attendant's meals.

(C) Securing and maintaining a Seeing Eye Dog, a Hearing Dog, or a Housekeeper Monkey, including purchase, training, food, and veterinarian bills.

(D) The reasonable cost of transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. Do not allow the expense if the client defaults and makes a second agreement.

(4) For OSIPM-MN clients who qualify for QMB, do not allow medical costs covered by Part A and Part B of Medicare, if the costs are incurred with an AFS-enrolled medical provider.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0060

Use of Rounding in Calculating Benefit Amount

(1) For ADC, ADCM, REF and REFM, and for GA and GAM clients without service needs, round the benefit amount down to the next lower whole dollar when the benefit amount is not a whole dollar amount.

(2) For ERDC, round total countable income down to the next lower whole dollar. If this rounded amount falls between two figures on the ERDC table, use the lower figure on the table. Do not round the benefit amount for ERDC.

(3) For GA and GAM clients with service needs, and for OHP, OSIP, OSIPM and QMB clients, do not use rounding.

(4) For FS, when calculating income and deductions, round any amount less than 50 cents to the lower dollar. Round any amount equal to or over 50 cents to the higher dollar. Use rounding as follows:

- (a) Add all the amounts from the same income source before rounding.
- (b) Round income earned on a weekly basis before applying the weekly conversion factor. Round the converted amount again before applying the earned income deduction.
- (c) Add all the costs for dependent care for each financial group member. Round each member's total cost before comparing it to the limits.
- (d) Add the medical costs for each person who is eligible for a medical deduction, then round the total cost before calculating the deduction.
- (e) Add all FS shelter costs for the need group. Round the adjusted shelter cost before calculating the shelter deduction.
- (f) After multiplying the adjusted income by 30 percent, round any amount from 1 to 99 cents up to the next higher dollar.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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 2-1994, 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

461-160-0070

Prorating Benefits

For ADC-BAS, FS, GA, OSIP and REF, prorate benefits if a benefit group is eligible for less than a full month's benefits (such as the initial and closing months). Use the following procedure:

- (1) Determine the benefit amount for a full month.
- (2) Divide the benefit amount by the number of days in the payment month.
- (3) Multiply the daily benefit amount by the number of days the group is eligible. The result is the prorated benefit amount.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0080

Spend-Down

- (1) For OSIPM-MN, spend-down is the amount of the financial group's adjusted income that is over the Medically Needy Adjusted Income Standard for the need group.
- (2) To be eligible, the need group must have medical costs that equal or exceed their spend-down amount.

(3) For both current and retroactive payment months, use medical costs in the following order to meet spend-down:

- (a) Medical costs paid in the payment month.
- (b) Unpaid medical costs incurred prior to the payment month.
- (c) Unpaid medical costs incurred in the payment month.

(4) Paid or unpaid medical costs used to meet spend-down for a payment month cannot be used to meet spend-down for a future payment month.

(5) If a medical cost is paid in the payment month after spend-down is met for that month, the cost cannot be used to meet spend-down for a future payment month.

(6) Clients who have not shown that they have met spend-down for the current payment month have the following month to do so. They must submit evidence of their medical costs and have their eligibility determined.

(7) To determine the date spend-down is met, allow costs incurred in the payment month in the following order:

- (a) Costs incurred by a member of the need group who is not eligible for (or is not requesting) medical program benefits.
- (b) Health insurance premiums, deductibles, and coinsurance.
- (c) Services not included on the Division's list of covered services that are either:
 - (A) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or
 - (B) Are other medical necessities, as approved by the Division.
- (d) Services that the Division includes in its list of covered services.

(8) The Division does not assume responsibility for any medical cost the client pays with personal funds. The Division assumes responsibility for unpaid bills incurred on or after the effective date of eligibility. This responsibility is limited to services and fee amounts covered by the Division's criteria and fee schedules.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1990, f. & cert. ef. 2-16-90; AFS 16-1992(Temp), f. & cert. ef. 7-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-160-0100

Use of Income; ADC-BAS, ADCM-BAS, ADCM-SAC, REF

Use income to determine eligibility and benefit level for ADC-BAS (except those receiving JOBS Plus wages), ADCM-BAS, ADCM-SAC and REF as follows:

- (1) Compare the financial group's countable income to the ADC-BAS Countable Income Standard for the need group. If countable income equals or exceeds the ADC-BAS Countable Income Standard, the benefit group is not eligible.
- (2) If countable income is below the countable income standard, calculate adjusted income by subtracting allowable deductions from countable income.

- (3) Compare the adjusted income to the Payment Standard. If adjusted income equals or exceeds the Payment Standard for the need group, the benefit group is not eligible for benefits.
- (4) If adjusted income is below the Payment Standard, calculate benefits by subtracting adjusted income from the Payment Standard for the need group. The remainder is the benefit amount for the full month, except for need groups including ineligible non-citizens.
- (5) For families with ineligible non-citizens in the need group, the benefit amount is the lesser of the remainder calculated in subsection (4) and the Payment Standard for the benefit group size.
- (6) Prorate benefits if the benefit group is eligible for a partial month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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 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

461-160-0110

Use of Income; ADCM-MN, ADCM-PLM

Use income to determine eligibility and benefit level for ADCM-MN and ADCM-PLM as follows:

- (1) Determine which deductions to allow and calculate the adjusted income.
- (2) ADCM-MN benefit groups are eligible if the financial group's adjusted income is equal to or below the Medically Needy Standard for the need group. If the income exceeds the Medically Needy Standard, calculate a spend-down amount by subtracting the standard from the adjusted income. The remainder is the spend-down amount.
- (3) ADCM-PLM benefit groups whose financial group's adjusted income exceeds the PLM Income Limit for the need group are ineligible. Those with adjusted income equal to or below the limit are eligible for medical benefits.

Stat. Auth.: ORS Ch. 183, 411, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

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

461-160-0120

Income of Father of Unborn, Ineligible Non-Citizens; ADCM-BAS

For clients who are ineligible for ADC-BAS, if financial group members are not included in the need group because they are the father of an unborn, or they do not meet the citizen/non-citizen status requirement, determine countable income for ADCM-BAS as follows:

- (1) Deduct from their nonexcluded income the ADC-BAS Adult Payment Standard for:
 - (a) The number of people described above; and
 - (b) The dependent children who live with them but are not in the filing group because of their alien status.

- (2) Deduct up to the first \$90 of earned income.
- (3) Count the remaining income as unearned income to the need group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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 19-1993, f. & cert. ef. 10-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97

461-160-0125

Income of Parent Who is a Household Member But Not Caretaker; ADCM-BAS

For clients who are ineligible for ADC-BAS, if parents in the financial group are not in the need group because they have given up care, control, and supervision of their children, determine their ADCM-BAS countable income as follows:

- (1) Deduct the needs of the parent(s), and the needs of their dependents living in the same household but not included in the benefit group, at the ADC-BAS Adult Payment Standard. Do not deduct the needs of anyone whose needs were deducted when calculating deemed income for minor parents under OAR 461-145-0860.
- (2) Deduct up to the first \$90 of earned income.
- (3) Deduct amounts paid to legal dependents not living in the household.
- (4) Deduct payments of alimony or child support.
- (5) Count the remaining income as unearned income to the need group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 9-1997, f. & cert. ef. 7-1-97

461-160-0140

Use of Income; ADC-EA, ADCM-EA

Use income and resources to determine eligibility and benefit level for ADC-EA and ADCM-EA as follows:

- (1) For all financial groups except those referred by the Community Action Agency (CAA), compare the countable income to the ADC-BAS Adjusted Income/Payment Standard for the benefit group. If countable income equals or exceeds the standard, the benefit group is not eligible.
- (2) For financial groups for which the CAA is providing services, the CAA will use the income standard stipulated in the State Plan to determine financial eligibility.
- (3) If countable income is below the standard, and the financial group meets all other ADC-EA eligibility requirements, do the following:

- (a) Use all income and resources that are immediately available to meet the emergent need; and
- (b) Calculate ADC-EA payments by subtracting all income and resources that are immediately available from the amount needed to meet the emergent need. The remainder is the ADC-EA payment, not to exceed ADC-EA benefit levels.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070 & 411.700

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

461-160-0160

Earned Income Deduction; ADC-BAS, REF

- (1) For ADC-BAS and REF, allow the earned income deduction for each financial group member who has earned income in determining eligibility and calculating benefits.
- (2) The earned income deduction is 50% of the client's gross earned income. This includes all self-employment income. Clients are eligible for the deduction as long as they have earned income in the budget month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0190

Earned Income Deductions and Order Used; ADCM-BAS

For clients who are ineligible for ADC-BAS, the following are the amounts and the order in which the ADCM-BAS earned income deductions are given at the initial and redetermination months of eligibility:

- (1) The first earned income deduction is the standard earned income deduction of \$90.
- (2) The second earned income deduction is the \$30 and 1/3 earned income deduction. It is calculated as follows:
 - (a) Deduct the \$30 after the \$90 standard deduction is given; and
 - (b) Deduct 1/3 of the amount remaining after the \$90 and \$30 deductions are given.
- (3) The third earned income deduction is the dependent care deduction. Allow dependent care costs in the budget month, as follows:
 - (a) The total monthly deduction cannot exceed \$200 for each dependent under age two, and \$175 for each dependent age two and over:

- (A) For clients with full-time employment, there is no limit on the hourly rate for care.
- (B) For clients with part-time employment (less than 30 hours per week), allow \$1 an hour for each dependent.
- (b) Allow dependent care costs for the following:
 - (A) The hours worked and work-related commuting and meal times.
 - (B) Medical leave or work-related training periods, even if dependent care was not used, if the client is required to pay the provider for the time.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 13-1994, f. & cert.e f. 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 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97

461-160-0193

Determining Eligibility and Calculating Payment; Direct Provider Payments for ADC-BAS and REF Child Care

- (1) ADC-BAS and REF clients are eligible for direct provider payments for child care per OAR 461-165-0160, or client-direct payments per OAR 461-165-0190, if all the following are true:
 - (a) The child care cost is allowed per OAR 461-160-0040.
 - (b) The caretaker relative is employed and is in the financial group. For the purpose of this OAR, work study is not considered employment.
 - (c) The child meets the age requirements of OAR 461-120-0510.
- (2) Payments are limited as follows:
 - (a) The cost must be allowed per OAR 461-160-0040.
 - (b) Payment is limited to the rates of OAR 461-155-0150.
 - (c) Calculate the direct child care payment amount per OAR 461-160-0300.
 - (d) Payment is made only for child care already provided.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0195

Earned Income Deduction; ADCM-EXT

For ADCM-EXT benefit groups whose eligibility continues after six months, allow as a deduction the cost of dependent care necessary for the employment of the caretaker relative. Do not allow dependent care costs that are reimbursed under another program.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

Stats. Implemented: ORS 411.700

Hist.: 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

461-160-0200

Unearned Income Deduction for Support; ADCM-BAS

For clients who are ineligible for ADC-BAS, allow an ADCM-BAS unearned income deduction of up to \$50 for:

- (1) Child support payments made directly from an absent parent to the financial group for a dependent child or minor parent in the financial group; and
- (2) Spousal support payments made directly to the financial group for a member of the financial group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97

461-160-0300

Use of Income to Determine Eligibility and Benefits for ERDC

Determine ERDC eligibility and benefit level as follows:

- (1) Calculate the financial group's average prospective income per OAR 461-150-0049.
- (2) Compare the countable income to the ERDC copay table in OAR 461-155-0150:
 - (a) If countable income exceeds the maximum income standard, the need group is ineligible for ERDC;
 - (b) If countable income does not exceed the maximum ERDC income standard, determine the ERDC benefit amount.
- (3) Calculate the ERDC benefit level as follows:
 - (a) Compare the billed child care costs to the ERDC monthly limit in OAR 461-155-0150; the allowed child care cost is the smaller of these two amounts;
 - (b) Determine the need group's copay amount per OAR 461-155-0150. If countable income falls between two figures on the scale, use the lower income figure to determine the copay amount;
 - (c) Subtract the copay from the allowed child care costs.

Stat. Auth.: ORS 411.060 & 411.700

Stats. Implemented: ORS 411.700

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

461-160-0400

Use of Income; FS

Use income to determine financial eligibility for FS as follows:

- (1) First, compare the financial group's income to the FS countable income limit for the need group. If countable income exceeds the limit, the benefit group is not eligible. The exceptions are:
 - (a) There is no income test for people who are categorically eligible;
 - (b) Clients who meet the FS elderly or disabled criteria must pass only the adjusted income test.
- (2) If countable income does not exceed the countable income limit, do the following:
 - (a) Determine which income deductions to allow; and
 - (b) Calculate adjusted income by subtracting allowable deductions from countable income.
- (3) Except for clients who are categorically eligible, compare the adjusted income to the adjusted income limit for the need group. If the adjusted income is below the adjusted income limit, the benefit group is eligible.
- (4) To calculate benefits for all FS clients, including those who are categorically eligible, multiply the adjusted income by 30 percent, then round to the next higher dollar. Subtract this amount from the Payment Standard (TFP) for the need group's size. The remainder is the benefit amount.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, Ch. 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92

461-160-0410

Use of Income and Income Deductions From Ineligible/Disqualified Group Members; FS

For FS, use the following to determine how much income to use from financial group members who are not in the need group:

- (1) For ineligible aliens or those disqualified for failure to obtain an SSN:
 - (a) After exclusions, divide the countable income of the ineligible/disqualified people by the number of people in the financial group; and
 - (b) Prorate the income among all the members of the financial group. Use the income as follows:
 - (A) Exclude the ineligible/disqualified members' share.

- (B) Add the rest of the prorated income to countable income for the entire financial group. Use this total when determining eligibility (including the countable income test for the need group) and calculating benefits.
- (2) Ineligible aliens or those disqualified for failure to obtain an SSN are entitled to all deductions. However, calculate child support, shelter and dependent care deductions as follows:
- (a) Divide the shelter and dependent care costs paid by or billed to, and the child support paid by, the ineligible/disqualified people evenly among all the people in the financial group; and
 - (b) Use all but the ineligible/disqualified members' share of the costs in determining the child support deduction, shelter deductions and dependent care deductions.
- (3) Count all income, after exclusions, for the following financial group members. These clients are entitled to all deductions:
- (a) Clients disqualified for failure to cooperate with OFSET, because of a JOBS, JOBS Plus or UC disqualification, or for IPV.
 - (b) Clients ineligible because they are fleeing to avoid prosecution, custody or confinement after conviction for a felony or attempt to commit a felony, or violating a condition of parole or probation imposed under a state or federal law.
 - (c) ABAWDs who are ineligible because they have exceeded the time limit per OAR 461-135-0520.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

461-160-0415

Medical Deduction; FS

- (1) For the initial application and at each redetermination, use the following to determine the amount of the FS medical deduction:
- (a) Use a reasonable estimate of the elderly or disabled client's anticipated medical costs for the redetermination period. Determine a reasonable estimate of the costs by:
- (A) Verifying current medical expenses;
 - (B) Verifying current medical insurance cost and coverage;
 - (C) Anticipating any medical expenses that can reasonably be expected to occur, based on the client's medical history.
- (b) Once an estimate of the anticipated medical costs has been determined, average the estimate over the months in the redetermination period.
- (2) For medical costs that were not anticipated at the initial application or redetermination, but are incurred and reported by the financial group during the redetermination period, let the group choose one of the following:
- (a) Allow the cost in the month it is billed or becomes due; or

(b) Average the cost as follows:

(A) If the cost has been paid, average it over the period from the month in which the cost was paid to the end of the redetermination period;

(B) If the cost has not been paid, average it over the period from the month after the expense was billed to the client to the end of the redetermination period;

(C) If the client is billed in the last month of the redetermination period for a medical cost that is due after the redetermination period ends, and the client does not pay the cost before the redetermination period ends, use the unpaid cost as a deduction in the next redetermination period.

(3) Do not allow a medical cost (either anticipated or unanticipated) if any of the following is true:

(a) The client reports a paid medical cost in the last month of the redetermination period, but reports it after their benefits for that month have already been issued;

(b) The medical cost is past due or is an amount carried forward from a previous billing period;

(c) The client and creditor have agreed on a monthly payment amount, but the client defaults on the agreement.

Stat. Auth.: ORS 411.060, 411.070, 411.105, 411.111, 411.300, 411.620, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009 & 414.032

Stats. Implemented: ORS 411.700

Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93

461-160-0420

Shelter Cost; FS

(1) For FS, use shelter costs (housing cost plus utility cost) to determine the amount of the shelter deduction. Allow shelter costs for the financial group's current home and for an unoccupied home if all the following are true:

(a) The home is unoccupied because of illness, employment or training away from home, or natural disaster or casualty.

(b) The financial group intends to return to the home.

(c) Any current occupants of the home are not claiming shelter costs for FS.

(d) The home is not leased or rented.

(2) If the filing group shares shelter costs with an ineligible student in the household group, use the following to determine the shelter deduction:

(a) Use only the amount actually paid or contributed by the financial group members (not the ineligible student) when determining the shelter deduction.

(b) If the shelter expense cannot be separated:

(A) Prorate the expense evenly among persons paying the costs. Use all but the ineligible student's share of the costs when determining the shelter deduction.

(B) If children of ineligible students have available income and they use their income to help pay shelter costs, they are

entitled to a prorated share of the shelter deduction.

(3) If the FS filing group shares housing costs with persons in the dwelling who are outside the filing group, allow the FS filing group only the share of the housing cost they actually incur per OAR 461-160-0030.

(4) Housing cost is the actual billed amount of all the following items:

(a) Continuing charges for the financial group's shelter, such as rent, mortgage, or other payment leading to ownership, including interest on such payments. Do not allow as a shelter cost late fees incurred because a mortgage or rent payment was not made on time.

(b) Property taxes, state and local assessments, and insurance on the structure of the home.

(c) Costs for repairing a home damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed by private or public sources.

(d) Itemized housing costs paid at the time of closing, such as insurance or property taxes. Do not allow closing costs.

(e) Car payments and the portion of insurance costs that cover the car, if the need group is homeless and living in a car.

(5) If housing costs are billed on a weekly or biweekly basis, convert them to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15.

(6) Let the financial group choose how to allow the housing cost as follows:

(a) Use as a deduction in the month the cost is billed or becomes due; or

(b) For large shelter bills such as property taxes or insurances, average over the period they are intended to cover.

(7) To determine the utility cost to use in calculating the FS shelter deduction, consider the following:

(a) Utility costs include heating, cooling and cooking fuel; electricity; water and sewer; garbage and trash collection fees; basic service and tax for one telephone; and installation fees charged by the utility provider.

(b) Do not allow home fans used for cooling, or one-time deposits. If a homeless need group uses their car for both shelter and transportation, the cost of gasoline is not a shelter or utility cost.

(c) LIEAP has no effect on utility costs as long as the filing group is billed for heating or cooling.

(d) When the home is unoccupied for reasons listed in section (1) of this OAR, allow only actual utility costs.

(8) Use the Standard Utility Allowance (SUA) if the household group is billed for the actual usage of heating and cooling costs through individual metering to the dwelling. All fuels and electricity are considered heating costs if they are actually used for heating. The utility standard is subject to the following criteria:

(a) The SUA is \$202.

(b) If more than one financial group in the home is entitled to the SUA, prorate it evenly among the financial groups who contribute to costs as follows:

(A) Divide the SUA by the number of financial groups.

(B) Prorate the SUA even if there is a financial group not receiving FS.

(c) The following financial groups are not eligible for the SUA:

(A) A group charged for excess heating and cooling costs, living in a public housing unit or other rental unit with a central utility meter.

(B) A group billed for both rent and utilities in one bill that does not identify heating and cooling costs separately.

(9) Use actual utility costs in the following situations:

(a) If the financial group chooses to use actual utility costs instead of the SUA, and has verified their actual utility costs. Advise the financial group that it is to their advantage to use actual utility costs only if those costs are above the SUA.

(b) If the heating or cooling costs are included in the housing cost and cannot be separated, use only the identifiable cost of the other utilities (i.e., telephone, water, etc.).

(10) Allow the financial group the opportunity to switch between the SUA and actual utility costs:

(a) At each redetermination.

(b) When they move.

Stat. Auth.: ORS 411.060 & 411.700

Stats. Implemented: ORS 411.060 & 411.700

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

461-160-0430

Income Deductions; FS

Use income deductions in the following order to determine adjusted income for FS:

(1) An earned income deduction of 20 percent of countable earned income for each employed member of the financial group. Do not allow the 20 percent deduction for the portion of wages funded by grant diversions such as JOBS Plus or Work Supplementation wages.

(2) A standard deduction of \$134 per month.

(3) A dependent care deduction not to exceed \$200 per month for each child under age 2 and \$175 per month for each other dependent, for dependent care costs billed to a member of the financial group necessary for a need group member to:

(a) Accept or continue employment.

(b) Seek a job.

(c) Attend preparatory training or education for a job. A student receiving educational income may receive the deduction only for costs not already excluded from educational income per OAR 461-145-0150.

(4) For any need group member who meets the FS elderly or disabled special group criteria, calculate the medical deduction as follows:

(a) Determine the amount of each person's medical costs according to OAR.

(b) Subtract \$35 from the total medical cost for the need group and allow the balance as a deduction.

(5) A deduction for payments of legally obligated child support to children outside the household group, including current month payments and payments on arrearages, except for payments made through a Set-Off of Individual Liability (SOIL) recovery or Internal Revenue Service (IRS) intercept.

(6) Calculate the shelter deduction as follows:

(a) For FS clients required to pay room and board in nonstandard living arrangements, the allowable shelter is one of the following:

(A) The room and board cost, minus the FS payment standard for the number of people in the benefit group; or

(B) The actual room cost, if the client can prove that the room cost exceeds the amount described in section (6)(a)(A) of this OAR.

(b) For all filing groups, calculate the shelter deduction as follows:

(A) Subtract the earned income, standard, dependent care, and medical deductions from countable income.

(B) Subtract 50 percent of this subtotal from the FS shelter cost. Round the balance and allow a deduction as follows:

(i) For need groups with a member who meets the FS elderly or disabled special group criteria, use the full amount that exceeds 50 percent of adjusted income.

(ii) For all other groups, use the actual amount, not to exceed \$250.

(7) If the client cannot verify medical, actual utility or questionable expenses, do not use the unverified expense as a deduction. If the client provides verification later, include the deduction when calculating the next month's benefits. If verification is provided within the 30-day application processing time frame, recalculate the initial month's benefits using the deduction.

Stat. Auth.: ORS 411.060 & 411.700

Stats. Implemented: ORS 411.060 & 411.700

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

461-160-0500

Use of Income; GA, GAM

To be eligible for GA and GAM, clients must have assets under the program limits as follows:

(1) The adjusted income must be under the Payment Standard (maintenance, special needs and service needs) for the need group.

(2) For all clients, except those whose service needs are paid by SDS or MHDDS vendor payment, calculate benefits by subtracting the adjusted income from the Payment Standard. The remainder is the benefit amount for the full month. Prorate benefits if the benefit group is eligible for a partial month.

(3) For clients who have service needs that are paid by SDSD or MHDDSD vendor payment, compare their adjusted income to the amount of the maintenance payment plus any special needs they qualify for. If their adjusted income is less than the maintenance standard plus any special needs, calculate benefits by subtracting the adjusted income from the Payment Standard. The remainder is the benefit amount for the full month. Prorate benefits if the benefit group is eligible for a partial month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700 & 411.730

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

461-160-0510

Use of Income; CMI GAM Clients Who are Over Income

(1) Use this rule to determine financial eligibility for GAM clients who meet all the following:

- (a) Diagnosed as Chronically Mentally Ill (CMI) per section (2) of this rule;
- (b) Employed as part of a treatment or rehabilitation program that is approved by SDSD, Program Assistance Section, in consultation with MHDDSD;
- (c) Have income over the Payment Standard.

(2) "Chronically Mentally Ill" is defined as individuals age 18 or over having a condition that includes both the following:

- (a) Severe mental disorder diagnosed as schizophrenic, major affective, paranoid, or other mental disorder with a documented history of persistent psychotic symptoms other than those caused by substance abuse. The disorder must be identified by a psychiatrist, a licensed clinical psychologist or a non-medical examiner certified by MHDDSD;
- (b) Impaired role functioning, consisting of at least two of the following:
 - (A) For "social role," an inability to function independently in the role of worker, student or homemaker;
 - (B) For "daily living skills," an inability to engage independently in personal care (grooming, personal hygiene, etc.) or community-living activities (handling personal finances, using community resources, performing household chores, etc.);
 - (C) For "social acceptability," an inability to exhibit appropriate social behavior, which results in demand for intervention by the mental health or judicial system.

(3) Determine financial eligibility as follows:

- (a) Subtract the Payment Standard (maintenance, special needs and service needs) from the adjusted income;
- (b) Allow excess income to be used as follows if prior authorized by the branch office:
 - (A) Payment of one-time special needs;
 - (B) Health insurance premiums.

(4) The remainder is the benefit group's pay-in (patient liability) and must be deposited in a T&A account.

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

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

461-160-0520

Earned Income Deductions; GA, GAM

- (1) To determine adjusted income for GA and GAM, allow:
 - (a) A 14 percent earned income deduction on total countable earned income; and
 - (b) For a person with a diagnosis of chronic mental illness who is employed as part of an approved treatment or rehabilitation program, use the total countable earned income and calculate an additional deduction of \$30 and 1/2 of the remaining earned income, up to \$70. The total deduction cannot exceed \$100.
- (2) Do not allow \$30 and 1/2 deduction for clients who, in the worker's judgment, were able but failed to return the Monthly Change Report Form in time to be received by the branch by the tenth calendar day of the month or the first working day after the tenth if it falls on a weekend or holiday.

Stat. Auth.: ORS Ch. 183, 411, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-160-0530

Calculating Benefits; SSI-Eligible OSIP in the Community

- OSIP clients who receive SSI and live in the community or are in community-based care are eligible for a payment based on the difference between the SSI standard and the OSIP standard:
- (1) Compare the financial group's countable income to the SIP table for the need group to determine the SIP payment.
 - (2) Adjust the SIP payment to raise OSIP to GA standards for clients who are separated from their spouses, but receive benefits under GA standards because SSI considers them part of a couple. Compute the SIP amount by subtracting the client's countable income (including SSI) from the appropriate GA standard.
 - (3) For clients who live in the community and who are not considered waived, use the ESB amount according to the SIP table as their share of costs for special needs. SSI clients who do not have an ESB amount do not have to pay a share of costs for special needs.

Stat. Auth.: ORS Ch. 183, 411, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

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

461-160-0540

Use of Income; QMB and Non-SSI OSIP, OSIPM in the Community

- (1) Use this rule to determine financial eligibility for all QMB clients, and for OSIP and OSIPM clients who meet all the following:
- (a) Live in the community;
 - (b) Do not receive SSI;
 - (c) Do not receive Title XIX waived services.
- (2) Determine which income deductions to allow and calculate adjusted income by subtracting allowable deductions from countable income.
- (3) For OSIP and OSIPM (except OSIPM-MN), clients are eligible if their adjusted income is less than the Payment Standard.
- (4) For OSIP, calculate benefits by subtracting the adjusted income from the Payment Standard. The remainder is the benefit amount for the full month. Prorate benefits if the benefit group is eligible for a partial month.
- (5) For OSIPM-MN, clients are eligible if their adjusted income is equal to or below the OSIPM-MN adjusted income standard. If the adjusted income exceeds the adjusted income standard, calculate a spend-down amount by subtracting the OSIPM-MN standard from the client's adjusted income. The remainder is the spend-down amount.
- (6) For QMB, clients are eligible if their adjusted income does not exceed the QMB Standard.

Stat. Auth.: ORS Ch. 183, 411, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

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

461-160-0550

Income Deductions; QMB and Non-SSI OSIP, OSIPM in the Community

- (1) Use this rule to determine adjusted income for all QMB clients, and for OSIP and OSIPM clients who meet all the following:
- (a) Live in the community;
 - (b) Do not receive SSI;
 - (c) Do not receive Title XIX waived services.
- (2) Allow deductions in the following order:
- (a) One standard earned income deduction of:
 - (A) \$65 for OSIP-AD, OSIP-OAA, OSIPM-AD, OSIPM-MN, OSIPM-OAA and QMB clients who are not blind; or
 - (B) \$85 for OSIP-AB, OSIPM-AB, OSIPM-MN and QMB clients who are blind; and
 - (C) One half of the remaining earned income.

- (b) One standard deduction of \$20 from the total remaining earned and unearned income;
- (c) Deductions under a Plan for Self-Support for:
 - (A) OSIP-AB, OSIP-AD, OSIPM-AB, OSIPM-AD and OSIPM-MN clients; and
 - (B) QMB clients under age 65.
- (d) Allow an additional income deduction for documented impairment-related work costs for:
 - (A) OSIP-AB, OSIP-AD, OSIPM-AB and OSIPM-AD clients; and
 - (B) QMB clients under age 65.

Stat. Auth.: ORS 411.060, 411.070, Ch. 183, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

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

461-160-0560

Terms Used for OHP, OSIP, OSIPM Long-Term Care or Waivered

These terms apply to OHP, OSIP and OSIPM long-term care and waived clients:

- (1) "Community Spouse" A person who is legally married to an institutionalized spouse and is not in a medical institution or nursing facility.
- (2) "Continuous Period of Care" A period of at least 30 consecutive days of care in a long-term care facility or waiverable home or community-based setting. 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, eligible dependents are minor (under age 21) or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse and are claimed as tax dependents by either spouse;
 - (b) For cases without a community spouse, eligible dependents are minor (under age 21) or dependent children living in the client's household group.
- (4) "Institutionalized Spouse": A person who is in long-term care or receiving waiverable home or community-based services for a continuous period and is married to a community spouse.
- (5) "Waiverable services" are services needed to keep a person out of a long-term care facility. There are two sets of waiverable services:
 - (a) For aged clients age 65 and over:

- (A) In-home services (companionship and home care).
- (B) RCF services/Assisted Living.
- (C) AFC services.
- (D) Minor physical adaptations to the home.
- (E) Home-delivered meals provided in conjunction with in-home services.
- (F) Specialized Living Facilities.

(b) For blind or disabled clients age 18 through age 64:

- (A) In-home services (companionship and home care).
- (B) RCF services/Assisted Living.
- (C) AFC services.
- (D) Minor physical adaptations to the home.
- (E) Home-delivered meals provided in conjunction with in-home services.
- (F) Specialized Living Facilities.

(6) "Waivered Client": A client receiving Title XIX waivered services for a continuous period.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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

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 Ch. 183, 411, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-160-0580

Excluded Resource; Community Spouse Provision On or After 10/1/89

For OSIP and OSIPM, this OAR applies to an institutionalized spouse who began a continuous period of care on or after October 1, 1989.

(1) Determine if the couple's resources make the institutionalized spouse eligible or ineligible for OSIPM as follows:

(a) Step 1: Determine what the couple's combined countable 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) Use OSIP policy to determine which of the couple's resources were countable resources.

(B) Combine both spouses' countable resources.

(C) At this point in the computation, the couple's combined countable resources are considered available equally to both spouses.

(b) Step 2: Calculate one half of what the couple's combined countable resources were at the beginning of the continuous period of care. Treat the community spouse's half of the couple's combined resources as a constant amount when determining eligibility.

(c) Step 3: Determine the community spouse's resource allowance. The community spouse's resource allowance is the largest of the three 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 \$79,020.

(B) \$15,804 (the state community-spouse resource allowance).

(C) A court-ordered community spouse resource allowance.

(d) Step 4: Determine what the couple's current combined countable resources are when a resource assessment is requested or the institutionalized spouse applies for OSIPM. Use the procedure in Step 1.

(e) Step 5: Subtract 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) Step 6: Compare the remaining resources to the OSIP resource standard for one person. If the remaining resources are at or below the standard, the institutionalized spouse is eligible. If the remaining resources are above the standard, the institutionalized spouse is not eligible until the couple's combined countable resources are 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 \$79,020) PLUS the OSIP resource standard for one person.

(B) \$15,804 (the state community-spouse resource allowance), PLUS the OSIP resource standard for one person.

(C) A court-ordered community spouse resource allowance PLUS the OSIP resource standard for one person.

(D) An amount that, in relation to the income generated from such a community spouse resource allowance, would raise the community spouse's income to the minimum monthly maintenance needs allowance. This would apply after the income available to the community spouse has been considered.

(2) Once eligibility has been established, resources equal to the community spouse's resource allowance (from section (1)(c) above) must be transferred to the community spouse if those resources are not already in that spouse's name. The

institutionalized spouse must indicate their 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.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.700

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

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 Ch. 183, 411, 412, 413, 414, 416 & 418

Stats. Implemented: ORS 411.700

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 OHP, OSIP or OSIPM institutionalized spouse who began a continuous period of care on or after October 1, 1989:

- (1) For OHP:
 - (a) Determine financial eligibility using OHP policy; then
 - (b) Determine the availability of income to pay for in-home services per sections (2) and (3) of this rule.
- (2) 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.

(3) 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, 1/2 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 1/2 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, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640 & 411.816

Stats. Implemented: ORS 411.700

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

461-160-0610

Use of Income; OHP, OSIP, OSIPM Long-Term Care or Waivered

Determine financial eligibility for OHP, OSIP and OSIPM clients who are in or entering long-term care, or who receive Title XIX waived services, as follows:

(1) Clients who receive OHP must apply their adjusted income (per OAR 461-160-0620) to reduce the cost of their care or services.

(2) Clients who receive SSI, or are deemed to receive SSI under Section 1619(b) of the Social Security Act, are eligible for OSIP and OSIPM (except OSIPM-MN) and do not have a patient liability.

(3) Clients who do not receive SSI, but whose countable income is under the Countable Income Limit, are eligible for OSIP and OSIPM (except OSIPM-MN):

(a) These clients must apply their adjusted income to reduce the cost of their care or service. This is their patient liability;

(b) If their adjusted income exceeds their cost of care or service, they must pay the full cost of care, but have no additional patient liability.

(4) Clients whose countable income exceeds the Countable Income Limit are not eligible unless they meet OSIPM-MN spend-down. Subtract the OSIPM-MN standard from the adjusted income; the remainder is the client's spend-down:

(a) If the anticipated cost of care equals or exceeds the spend-down, the client has met the spend-down;

(b) If the anticipated cost of care is less than the spend-down, subtract the cost of care from the spend-down. The client must pay the full amount of care and incur additional medical expenses to meet the remainder of the spend-down.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640 & 411.816

Stats. Implemented: ORS 411.700

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

461-160-0620

Income Deductions; OHP, OSIP, OSIPM Long-Term Care or Waivered

Determine adjusted income for OHP, OSIP and OSIPM as follows:

(1) Allow deductions in the order below for OHP, OSIP and OSIPM clients who do not receive SSI and:

(a) Reside in or are entering long-term care; or

(b) Receive Title XIX waived services.

(2) Deduct one standard earned income deduction of \$65 of the earned income for OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA, or \$85 for OSIP-AB and OSIPM-AB. Do not allow an earned income deduction for OHP or OSIPM-MN.

(3) For OSIP and OSIPM, deductions under the plan for self-support.

(4) Deduct one of the following need standards:

(a) A \$30 personal needs allowance for clients in long-term care.

(b) A \$90 personal needs allowance for clients in long-term care who are eligible for VA benefits based on unusual medical expenses (UME).

(c) The OSIP maintenance standard for clients who receive waived services.

(5) For OHP, OSIP and OSIPM, deduct a community-spouse income allowance when income of the institutionalized spouse is made available to (or for the benefit of) the community spouse. Compute the community spouse's income allowance as follows:

(a) Calculate a maintenance needs standard for the community spouse by adding:

(A) \$1,326; PLUS

(B) The amount over \$398 that is needed to pay monthly shelter expenses for the couple's principal residence. Shelter expenses are rent or mortgage payment (interest and principal), taxes, insurance, required maintenance charge for a condominium or cooperative, plus the FS program's standard utility allowance for the spouse and eligible dependents.

(b) Subtract the community spouse's total gross monthly income from the maintenance needs standard calculated above. The remaining amount is the community spouse's income allowance, unless a spousal support court order or exceptional circumstances resulting in significant financial distress require a greater amount.

(6) For OHP, OSIP and OSIPM, deduct a dependent income allowance for each eligible dependent whose total monthly income is under \$1,326. To determine an eligible dependent's income allowance:

(a) For cases with a community spouse:

(A) Subtract the eligible dependent's monthly income from \$1,326; and

- (B) Calculate one-third of the amount remaining after the subtraction in (a). This is the eligible dependent's income allowance.
- (b) For cases with no community spouse, subtract the OSIPM-MN adjusted income standard, using the number in the household group as the number in the need group.
- (7) Deduct costs for maintaining a home if the client meets the criteria per OAR 461-160-0630.
- (8) For OHP and OSIPM (except OSIPM-MN), allow medical costs per OAR 461-160-0055 that are not covered under the state plan.
- (9) Apply the balance as follows:
 - (a) For OHP and OSIPM (except OSIPM-MN), the balance is the adjusted income. The amount of patient liability is as follows:
 - (A) For waived clients, their waived service cost or their adjusted income, whichever is less. This amount must be collected each month as a condition of receiving waived services.
 - (B) For long-term care clients, the cost of care or their adjusted income, whichever is less.
 - (b) For OSIPM-MN, the balance is the spend-down amount.

Stat. Auth.: ORS 411.060 & 411.700

Stats. Implemented: ORS 411.070

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

461-160-0630

Deduction for Maintaining a Home; Long-Term Care Client

- (1) For OHP, OSIP and OSIPM, a single client in long-term care is eligible for a home maintenance deduction if all the following are true:
 - (a) The amount is not deducted for more than six months;
 - (b) A physician has documented that the client is likely to return home within that period;
 - (c) The amount is reasonable in relation to the applicable OSIP shelter standard;
 - (d) Maintaining the home is determined by the case manager to be an essential part of a plan for relocation to a less restrictive living situation.
- (2) The amount of the deduction is determined by the service agency that authorized the placement.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.635, 411.640 & 411.816

Stats. Implemented: ORS 411.700

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

461-160-0700

Use of Income; OHP

Use income to determine eligibility for OHP as follows:

- (1) Assign the financial group's average countable income to the budget month per OAR 461-150-0055.
- (2) Do not allow any deductions from the financial group's countable income.
- (3) Compare the financial group's average countable income for the OHP budget month to the OHP income standard.
 - (a) If the financial group's average countable income is below the income limit for the need group size, the benefit group is eligible for OHP;
 - (b) If the financial group's average countable income equals or exceeds the OHP income standard, determine eligibility for members of the need group who are *not* Health Plan New/Noncategorical (HPN) per OAR 461-135-1100 using countable income received by the financial group *only* in the budget month. These clients are eligible for OHP if the group's income in the budget month is below the income standard.

Stat. Auth.: ORS Ch. 411.060

Stats. Implemented: ORS 411.700

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 165

ISSUING BENEFITS

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 accrues to and becomes vested in the client when issued.

(3) Except for EBT, consider a benefit issued if the check or FS benefits have been handed to the client in the branch office or check-cashing facility, or mailed to the client. Consider a benefit issued, and received by the client, when a direct check deposit is made to the client's bank account. FS coupons are considered received by the benefit group if:

(a) They are not reported lost or stolen during the validity period defined in OAR 461-165-0010; and

(b) They were not canceled by the Division.

(4) For EBT, consider 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) FS benefits, except those issued by EBT or JOBS Plus, have a validity period during which ATPs may be transacted or food coupons are intended for use. If benefits are issued before the 20th day of the payment month, the validity period ends the last day of the month. If benefits are issued on or after the 20th day of the payment month, the validity period ends the last day of the following month. Filing groups who fail to pick up food coupons or fail to transact an ATP during the validity period lose entitlement to the benefits.

(6) FS benefits issued by EBT remain available for client access as long as the account is active. The EBT system makes them inaccessible after three calendar months without account activity. The Division can restore benefits for up to nine months after the account goes inactive (ages off). After that, the balance in the account is returned to the state.

(7) Benefits to the client are unrestricted and do not require accountability for individual expenditures or amounts.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

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

461-165-0020

Responsibility for Authorizing Benefits

Branch offices designated to determine eligibility in specific areas and programs have the sole responsibility to authorize benefits. The branch staff is responsible for determining need, establishing eligibility and authorizing benefits:

- (1) Determine if the need group is eligible for benefits before benefits are authorized.
- (2) Support all benefits with a current award authorization. An authorized branch staff member must sign the award authorization or directly enter the authorization on the computer system.
- (3) Program benefit awards for cash payments may be disbursed in partial payments; for example, as an advance, dual-party, or vendor payment.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-165-0030

Concurrent and Duplicate Program Benefits

- (1) Clients cannot receive benefits of the same type (cash, medical, FS) for the same time period from Oregon, except as follows:
 - (a) If a GA client becomes eligible for ADC-BAS, supplement the client's benefits up to ADC-BAS payment standards.
 - (b) A client receiving ADC-BAS for themselves and their children may also receive ERDC for children who are in the household group but cannot be included in the ADC-BAS filing group.
 - (c) A client may receive ADC-EA and cash payments from other programs for the same time period.
 - (d) A child who is an ERDC benefit group member may also be a member of the following benefit groups:
 - (A) An ADC-BAS benefit group when living with a nonneedy caretaker relative, if the caretaker relative is not the parent.
 - (B) An OSIP-AB benefit group.
 - (e) FS clients who leave a filing group that includes a person who abused them and enter a domestic violence shelter/safe home may receive FS benefits twice that month.
 - (f) A QMB-BAS client may also receive medical benefits from ADCM or OSIPM.

(2) Clients cannot receive benefits of the same type (cash, medical, FS) for the same time period from Oregon and another state, except as follows:

(a) Medical benefits may be authorized for an eligible client if an Oregon provider refuses to bill another state and the client would not otherwise receive medical care.

(b) Cash and medical benefits may be authorized during the Assessment Program, if it has been verified that benefits from another state will end by the last day of the month in which the client applied for ADC-BAS.

(3) Do not supplement benefits for a person receiving benefits under the same program from another state who moves into Oregon, even if the benefit standards in Oregon are higher than those in the other state.

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 9-1997, f. & cert. ef. 7-1-97

461-165-0035

Alternate Payees; EBT

(1) An alternate payee may be used to obtain and use benefits for the benefit group when benefits are issued by electronic benefit transfer (EBT).

(2) An alternate payee may be used any time the primary person, their spouse or another responsible member of the filing group names one in writing on a form designated by the Division.

(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, issue an EBT card and personal identification number (PIN) for that person.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

Hist.: AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0040

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 & 418.100

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; ADC-BAS

- (1) An emergency payee for ongoing ADC-BAS 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 Ch. 183, 411, 414, 416 & 418

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

461-165-0050

Dual Payee; When to Use

- (1) For ADC-BAS, GA, OSIP, and REF, 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 ADC-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 OFFSET 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 Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-165-0060

Prohibition Against Benefits in Amounts Less Than \$10

(1) For ADC-BAS and REF, do not issue benefits if the computed monthly benefit is less than \$10. People who do not receive a cash payment because the monthly benefit is less than \$10 are eligible for medical benefits. The following are exceptions to the \$10 limitation:

- (a) The \$10 limit does not apply to special payments, such as one-time special needs, emergency assistance, supplements, or a benefit amount under \$10 due to recovery of an overpayment.
- (b) The \$10 limit does not apply to dual-payee payments made in money management cases if the monthly benefit amount is \$10 or more. Issue to the client any remaining funds after the dual-payee payments are made.
- (c) The \$10 limit does not apply to wage supplements issued to JOBS Plus participants.

(2) For the initial month, FS cases are not eligible for benefits if the allotment is less than \$10.

(3) For ongoing months, issue FS benefits as follows:

- (a) All categorically eligible, and eligible one- and two-person benefit groups, receive a minimum monthly allotment of \$10.
- (b) Except when benefits are issued by EBT, all eligible benefit groups of three or more people entitled to receive \$1, \$3, and \$5 allotments, will receive \$2, \$4, and \$6 allotments.

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 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0070

Immediate Issuance

(1) Provide the client with an immediate issuance of benefits for new, reopened and restored cases if the client is eligible for a benefit and:

- (a) Has emergent needs that must be met before a benefit can be issued through the automated computer system;
- (b) For FS, meets the criteria for expedited service.

(2) Provide the client with an immediate issuance of benefits for ongoing cases if:

- (a) The Division fails to issue benefits promptly. This includes failure to process a complete and correct Monthly Change Report form within five working days after receipt.
- (b) An advance is necessary to enable them to enter low-cost housing administered by HUD. Utility and rental deposits, and up to one month's rent, may be advanced.

(3) Provide immediate issuance of benefits as follows:

- (a) For cash benefits, issue by revolving fund check or the special cash pay system.
- (b) For medical benefits, issue a temporary medical ID card.
- (c) For FS, issue by DMI, by EBT in areas where it is operational or an ATP card.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

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

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.

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

461-165-0090

Alternate Methods for Delivery of Benefits

- (1) Alternate methods for delivering benefits are:
 - (a) Redirect benefits to the branch office.
 - (b) Additionally for FS, send benefits:
 - (A) To contracted check-cashing facilities in areas where they are available; or

(B) To the payee by certified mail. Do not use certified mail for FS benefits under \$25.

(2) Unless benefits are issued by EBT, use an alternate method of delivery if any of the following is true. The benefit group:

(a) Is unstable (i.e., moving constantly, and the branch needs to re-establish contact when there has been an unreported change of address).

(b) Is transferred to a new branch.

(c) Has not cooperated in completing a QC review.

(d) Must be contacted personally to obtain essential information that may affect eligibility or the correct computation of the benefit amount.

(e) Additionally for FS, if the benefit group:

(A) Has a history of theft from their mail or lives in an area that has been identified by DMI, branch staff, or postal inspectors as high-risk for mail loss.

(B) Receives a FS allotment of \$250 or more per month. This is only a branch guideline and should not create a hardship for the benefit group.

(3) For FS, unless benefits are issued by EBT, consider an alternate method of issuing benefits if any of the following is true. The benefit group:

(a) Lives in a multiple-family dwelling (i.e., apartments and hotels) where theft may occur.

(b) Lives in a low-income housing development.

(c) Lives in a neighborhood with a high density of low-income households.

(d) Has no home address or post office box.

(e) Requests an alternate method, if there is a valid reason for the request.

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 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0095

Conversion to Electronic Benefit Transfer (EBT) Issuance

Effective September 1, 1997, the method of benefit issuance for ADC (except for direct deposit) and FS will convert to electronic benefit transfer (EBT) as follows:

(1) Effective September 1, 1997, Lane County (excluding Florence).

(2) Effective October 1, 1997, Multnomah County east of the Willamette River.

(3) Effective November 1, 1997, Clatsop, Columbia, Multnomah (west of the Willamette River), Tillamook and

Washington Counties.

(4) Effective December 1, 1997, Marion, Polk and Yamhill Counties.

(5) Effective January 1, 1998, Benton, Clackamas, Lincoln and Linn Counties.

(6) Effective February 1, 1998, Coos, Curry, Douglas, Klamath and Lake Counties, and Florence.

(7) Effective March 1, 1998, Jackson and Josephine Counties.

(8) Effective April 1, 1998, Crook, Deschutes, Gilliam, Hood River, Jefferson, Morrow, Sherman, Umatilla, Wasco and Wheeler Counties.

(9) Effective May 1, 1998, Baker, Grant, Harney, Malheur, Union and Wallowa Counties.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

Hist.: AFS 14-1997, f. & cert. ef. 9-2-97

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 ADC-EA and FS benefits that are not part of staggered issuance:
 - (a) Date an authorized cash payment check on the first day of the payment period, or as soon as possible thereafter.
 - (b) Mail checks and medical cards so they can be delivered to the client on the first day of each month. Exceptions are:
 - (A) Initial month benefits for new/reopened/restored cases.
 - (B) Cases in MRS.
 - (C) OSIPM-MN cases with a spend-down.
 - (D) Cases with no special needs or service coding receive the \$1.70 OSIP payment in advance for the benefit period,

from the date of eligibility to the end of the calendar year.

(E) If the first day of the month falls on Sunday or a holiday, mail the check in time for the client to receive it on Saturday or the mail day preceding the holiday.

(F) Checks redirected to the branch office may be released any time on the 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 new/reopened/restored cases.

(B) Cases in MRS.

(C) Benefits held by the branch office.

(D) FS benefits sent through staggered issuance.

(2) ADC-EA clients must receive their checks, either direct or vendor, in time to meet their emergent needs.

(3) For FS benefits sent through staggered issuance, mail monthly allotments of coupons on the 1st through the 15th calendar day of each month. Mailing is staggered, based on the last digit of the case number. For FS benefits issued by EBT, benefits are staggered based on the last digit of the case number over the first nine calendar days of the month.

(4) For FS changes that could not be made in time to adjust the monthly allotment, issue a supplement within 10 days of the date the change was reported.

(5) For OSIPM (except OSIPM-MN), mail a medical ID card on the first of each month to clients receiving Title XIX waived services who contribute to their services by paying their excess income into a maintenance trust and agency account. Do not hold the client's medical card until the payment is received. If payment is not received before the end of the payment month, consider OSIPM-MN or QMB for the following month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

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

461-165-0105

Exception to Staggered Issuance; FS

The second month's allotment of FS 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 FS benefits is established for these groups, benefits are issued as follows:

(1) If the case is opened on FSMIS 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 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0108

Issuing Expedited FS

Use the following methods to ensure that FS expedited benefits are received by the seventh calendar day following the date of application:

- (1) For DMI, make the computer entry by the fifth calendar day after the filing date.
- (2) Make ATPs available for pick up by the seventh calendar day following the filing date, early enough to allow same-day redemption.
- (3) If the seventh calendar day is a weekend or Monday holiday, make the ATPs available on the previous Friday, early enough to allow same-day redemption.
- (4) For EBT, authorize immediate issuance benefits on the system by the 7th calendar day after the filing date.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

461-165-0110

Alternatives to Direct Money Payment

For ADC, GA, OSIP and REF, the alternative to direct money payment is protective payments when the goal is to ensure that the benefits are used to meet basic needs. For ADC and REF, protective payments may be made whenever clients demonstrate such an inability to manage funds that the Division determines their benefits are not being used in their best interest. Protective payments should be used particularly if mis-management of funds, caused by repeated inter-ruptions of ADC benefits, poses a threat to the health and safety of children in the household.

- (1) Protective payment methods include the following:
 - (a) Payments to authorized representatives.
 - (b) Dual-payee payments.
 - (c) Vendor payments.
- (2) For ADC or REF, use vendor payment if the client refuses, without good cause, to cooperate with SED. A minimum of 51% of the cash benefits will be paid by vendor payment for these benefit groups.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-165-0120

Payment Procedure for Client in Hospital

- (1) For ADC-BAS, ADCM (except ADCM-EA), OHP, REF and REFM, continue regular monthly benefits when a client enters a general hospital. The monthly benefits remain unchanged until the client returns home or enters some other living arrangement. Use an authorized representative designated by the client or the branch, if necessary.
- (2) For ERDC, GA, GAM, OSIP, OSIPM, and QMB, continue regular monthly benefits if a client will be in the general hospital for less than 30 days. If the client will be in the general hospital for 30 days or more, determine their needs as if they were in a nursing home.
- (3) For FS, continue regular monthly benefits if the client will be in their 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 FS.

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 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-165-0130

Payment of Benefit Out-of-State

- (1) For all programs except FS and GA, send benefits out of state if clients are absent from Oregon and they establish their intent to return within 60 days.
- (2) If clients are detained out of state beyond 60 days for medical reasons, determine continued eligibility and require the client 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) For FS, send benefits out of state when any of the following apply:
 - (a) Restoring lost benefits.
 - (b) The Division determines there is a need to send benefits out of state.
- (A) For FS coupons, the Division has the FS coupons, receives a request to forward benefits out of state, the filing group was eligible for the benefits in Oregon and the other state will not duplicate the benefits.
- (B) The client has an EBT account with residual benefits that they cannot access.
- (5) For GA, do 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

461-165-0140

Endorsement 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 can endorse a check with a mark or thumbprint if duly witnessed by two people giving their full names and addresses.
- (3) Food stamp coupons can be used only with a signed FS identification card.
- (4) Benefits issued via EBT can be used only with the Oregon Trail debit card and the client's matching personal identification number (PIN).
- (5) 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)

- (6) For all programs except FS, 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. Use the following procedure:
 - (A) Before the next-of-kin endorses a check, the check must be presented to the branch office.
 - (B) 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 FS cash-out benefits), designate an adult survivor as the alternate payee. Issue the payee an EBT card and PIN to access the balance in the EBT account.
- (7) For FS, there is no survivor's right to benefits unless the survivor is included in the filing group. When the survivor is not in the group:
 - (a) Ask them to return unused coupons or unnegotiated cash-out checks to the branch.
 - (b) For FS benefits that were issued via EBT, delete the remaining benefits from the EBT account.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.610, 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

461-165-0150

Late Processing Fees; ADC-BAS in MRS

- (1) For all ADC-BAS Monthly Reporting clients, issue the benefit group's check within ten calendar days after receiving a complete Monthly Change Report. Consider Monthly Change Reports received before the first day of the payment month as received on the first day of the payment month.
- (2) If the check has not been issued (mailed by the branch or the state office) by the end of the tenth calendar day, the client may request (on the following workday, or any workday after that until the check is issued) that the branch office issue a check for the benefit amount due. Issue a revolving fund check the same workday if the request is made before noon, or no later than the following workday if the request is made after noon.
- (3) If the branch office fails to issue a check per sections (1) and (2) of this rule, pay the client a late payment of ten percent of the benefit amount due for the payment month, in addition to the normal benefit.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.975

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-165-0160

Direct Provider Payments; General Information

- (1) Direct provider payments are used for:
 - (a) Child care payments for ADC-BAS, the Assessment Program, ERDC, JOBS, JOBS Plus, OFFSET and REF.
 - (b) Non-child-care support service payments (as determined by the local service district).
- (2) No payment will be made for less than one dollar.
- (3) To receive a provider direct payment, the provider must:
 - (a) Agree not to charge AFS clients a higher rate than they charge their other customers; and
 - (b) Give AFS their correct, valid SSN or IRS identification number. If the provider is tax-exempt, they may provide a statement of their tax-exempt status, instead.
- (4) AFS payments made directly to a provider are made on behalf of the eligible family group and do not constitute a contractual obligation or place AFS in an employer relationship with the provider.
- (5) Child care provider payments are made directly to the provider, except for client-direct payments specified in OAR 461-165-0190.
- (6) Direct provider payments for child care are subject to the following:
 - (a) The payments cover only child care already provided.
 - (b) Payments are limited to the rates in OAR 461-155-0150.

- (c) For ERDC, no direct provider payments will be authorized unless a primary provider has been designated.
- (d) Eligibility for payment requires that providers meet the requirements of OAR 461-165-0180.
- (7) For ADC-BAS, ERDC and REF, interim child care payment requests may be submitted anytime, with the following restrictions:
 - (a) Interim payments cannot be made unless child care is jeopardized and no other arrangements can be made.
 - (b) The worker authorizes the interim payment.
 - (c) For ERDC, the copay is deducted from the billed amount before the interim payment is made.

Stat. Auth.: ORS 409.015, 411.060

Stats. Implemented: ORS 409.015, 411.122

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

461-165-0170

Direct Provider Payments; Payment Forms

- (1) For ADC-BAS, ERDC and REF, child care providers must:
 - (a) Get the appropriate payment forms through the Provider Pay System. If the provider does not receive the payment forms in the mail, they may contact DPU;
 - (b) Return the completed AFS-approved payment form to DPU. No payment will be made for forms that are not received by the last day of the third month after the form was issued.
- (2) For JOBS and OFFSET, providers get the payment form from the AFS branch or the AFS client:
 - (a) Child care providers must return the completed AFS-approved payment form to DPU no later than 30 days after the expiration date on the form;
 - (b) For all other provider-direct payments, vendors must return the completed AFS-approved payment form to DPU no later than 60 days after the expiration date on the form.
- (3) For JOBS Plus:
 - (A) Child care providers get the payment form from the AFS branch or the AFS client;
 - (b) Child care providers must return the completed AFS-approved payment form to DPU no later than 30 days after the expiration date on the form.
- (4) If the payment form is returned after the deadline:
 - (a) For ADC-BAS, ERDC and REF, DPU will issue a new payment form;
 - (b) For JOBS, JOBS Plus and OFFSET, DPU will determine if the provider had good cause for returning the form late.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS 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 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-165-0180

Direct Provider Payments; Child Care Provider Requirements

To be eligible for child care payment from AFS, providers must meet all of the following requirements:

(1) Submit a completed listing form to the Direct Pay Unit (DPU) for each family in care. If information provided on the listing form indicates preliminary eligibility, AFS will assume that the provider meets eligibility requirements and will issue a Child Care Billing form to the provider, unless:

(a) The provider was previously denied eligibility for payment and was not subsequently determined to be eligible for payment; or

(b) AFS determines, following completion of Criminal History (CH) and Child Protective Service (CPS) records checks, that the provider, or other subject person, is not eligible for payment.

(2) Comply with the following:

(a) Bill at an hourly rate for children usually in care less than 158 hours per month.

(b) Keep daily attendance records that show when children are in care, and billing records for each child receiving AFS child care benefits. The provider must keep the records for six months and provide them to AFS on request.

(c) Be the person who actually provides the child care. The provider must notify AFS before using someone to supervise children on a temporary basis.

(d) Not be an ineligible provider per OAR 461-160-0040.

(e) Provide evidence of compliance with these OARs, when AFS determines a review is necessary.

(f) Allow an inspection by AFS, during hours when providing care, of the premises where child care is provided.

(3) Meet the following regulatory requirements:

(a) A provider subject to Employment Department OARs 414-300-0000 to 414-300-0440, 414-350-0000 to 414-350-0250, or 414-205-0000 through 414-205-0070 must be currently certified or registered with the Child Care Division (CCD) of the Employment Department and be in compliance with the applicable OARs. Even if a provider is registered or certified with the Child Care Division, AFS may deny eligibility for payment when a review of CH or CPS records, an investigation of a complaint, or information provided by another agency indicates a substantial risk to the health and safety of children.

(b) A provider exempt from the OARs specified in subsection (3)(a) must meet all of the following requirements:

(A) Submit names of the following persons together with authorizations for a record check through the CH record system maintained by the Oregon State Police and the CPS record system maintained by the State Office for Services to Children and Families (SCF):

(i) The provider and whoever they use to supervise children in their absence.

- (ii) Other persons 16 years of age or older who live in the home of a provider who cares for children in the provider's home.
 - (iii) Other persons, who frequently visit the home of a provider who cares for children in the provider's home during the hours child care is provided, and may have unsupervised access to children in care.
 - (iv) Site directors of child care facilities that are specifically excluded by law from certification with the CCD, and their employees who may have unsupervised access to children.
- (B) Complete a CH and CPS clearance per OARs 461-165-0400 through 461-165-0420.
- (C) Comply with the following:
- (i) Be age 16 or over and in such physical and mental health as will not adversely affect a child in care.
 - (ii) Report to AFS their arrests or involvement with SCF, or other state equivalent, of persons covered by paragraph (3)(b)(A) of this OAR.
 - (iii) Report to AFS name and address changes, and any additions to the household, within 10 calendar days of occurrence.
 - (iv) Report suspected child abuse to SCF or a law enforcement agency.
 - (v) Supervise children in care at all times.
 - (vi) Prevent persons who have demonstrated behavior that may have a detrimental effect on a child from having access to children in care.
 - (vii) Allow custodial parents of children in care to have immediate access to their children at all times.
 - (viii) Inform parents of the need to obtain immunizations for their children.
 - (ix) Take steps to protect children from the spread of infectious diseases.
 - (x) Provide information, in a manner specified by AFS, required to determine whether the provider meets health and safety requirements, including the CH and CPS records checks.
- (D) Ensure that the facility where care is provided meets all following facility standards, unless providing care in the home of the child. Providers who give care where the child lives must meet only the requirements of paragraph (3)(b)(D)(iii) below.
- (i) The facility shall have water that is safe to drink.
 - (ii) The facility shall have a working smoke detector on each floor level and in any area where children nap.
 - (iii) All floor levels used by children shall have two usable exits to the outdoors (a sliding door or window that can be used to evacuate children can be considered a usable exit), or, if a second floor is used, the provider shall have a written plan for evacuating children in an emergency.
 - (iv) Fireplaces, space heaters, electrical outlets, wood stoves, stairways and other hazards shall have barriers to protect children.
 - (v) Firearms, ammunition, and other dangerous items such as medicine, drugs, cleaning supplies, paints, plastic bags, and poisonous and toxic materials shall be kept in a secure place out of children's reach.
 - (vi) The building, grounds, toys, equipment and furniture shall be maintained in a clean, sanitary and hazard-free

condition.

(vii) The facility shall have a telephone in operating condition.

(4) Child care providers who have incurred an overpayment by intentionally billing the Division for more child care than actually provided, or by negotiating duplicate payments, or by collecting payment directly from a child care client after the Division's payment for their services has been garnisheed, or by committing an act intended to mislead, misrepresent, conceal or withhold facts to establish or increase the amount of payment, as established by the Division under OAR 461-195-0570, shall be ineligible for payment as follows:

(a) On the first overpayment, the provider will not be eligible for payment, for six months, and until the full amount of the overpayment amount is paid.

(b) On the second overpayment, the provider will be permanently disqualified.

(5) Child care providers who have committed an intentional program violation (IPV) by intentionally making a false or misleading statement, or misrepresenting, concealing or withholding facts, as established by the Division under OAR 461-195-0570, shall be ineligible for payment as follows:

(a) When the first IPV is established against a child care provider, the provider shall be ineligible for payment for a period of six calendar months.

(b) When a second IPV is established against a child care provider, the provider shall be permanently ineligible for future payment.

Stat. Auth.: ORS 409.015, 411.060

Stats. Implemented: ORS 409.015, 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

461-165-0190

Client-Direct Child Care Payments

ADC-BAS, ERDC, JOBS, OFFSET and REF child care payments can be made directly to the client instead of through the provider-direct payment system as follows:

(1) In the initial month of eligibility to reimburse the client for payments they have already made.

(2) For short-term child care for up to 30 consecutive days in the following situations:

(a) If the client is looking for a listable provider:

(A) When the client applies, the 30-day period starts the date they are given or mailed the child care provider listing form.

(B) When AFS notifies a client that a provider is not listed, the 30-day period starts with the day after the date of the notice.

(C) When AFS notifies a client that a current provider cannot be listed, the period starts on the 1st of the month following the month for which the last Child Care Billing form was issued.

- (D) When a client has to use an emergency provider, the 30 days start with the first day the emergency provider was used.
- (b) For short-term need situations, including:
 - (A) When the client has employment that is expected to end within 30 days from the date they notify AFS about the employment. The 30-day period starts from the date they notify AFS.
 - (B) When the client is involved in short-term JOBS or OFFSET activities and the worker determines that client-direct payment is appropriate.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 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 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

461-165-0200

Restoring Benefits

- (1) Authorize restoration or supplemental payment of benefits, even if the benefit group is currently ineligible, if a benefit group received fewer benefits than it was entitled to because of any of the following:
 - (a) A change that would cause an increase in benefits was reported before the first of the payment month, but too late for the branch to adjust the next payment.
 - (b) The branch caused an administrative underpayment. Administrative underpayments include, but are not limited to, the following:
 - (A) Failing to take action on information reported.
 - (B) Using an incorrect effective date.
 - (C) Denying, closing or reducing benefits in error.
 - (D) Making calculation errors.
 - (c) The branch was directed to restore benefits in a hearings decision.
 - (d) The repayment of an overpayment was too much.
 - (e) A court decision finds benefits to be wrongfully withheld and its action entitles a client to restoration of benefits.
 - (f) An IPV disqualification is reversed. Participation in an IPV hearing automatically constitutes a request for restoration of benefits. Do not restore benefits to a disqualified person based solely on the fact that a criminal conviction could not be obtained.
 - (g) FS benefits deposited in an EBT account were returned because they had not been accessed (aged off).
- (2) The amount restored is issued in addition to the benefits that a currently eligible group is entitled to receive. For FS, the branch office must honor reasonable requests by benefit groups to restore benefits in monthly installments.
- (3) A benefit group that moves from the State of Oregon (Project Area) can still receive any restoration of benefits due

it.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.047

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

461-165-0210

Calculating Restored/Supplemented Benefits

Calculate the amount of benefits to restore using the following process:

- (1) Determine the effective date the benefit group is eligible for lost benefits.
- (2) The benefit group is not eligible for restored benefits any month that eligibility for those benefits cannot be established. Give the benefit group an opportunity to prove eligibility for questionable months.
- (3) Calculate the correct benefit amount for the months the benefit group was underpaid, or closed or denied in error.
- (4) Subtract the amount the benefit group actually received from the amount they should have received.
- (5) The restoration amount for EBT aged-off FS benefits is the full amount of inaccessible benefits, when the request for restoration is within nine months of the date the benefits were aged off.
- (6) Offset the amount of restored benefits with previous overdue or suspended overpayments.
- (7) Restore benefits to the group containing the largest number of people who were benefit group members at the time the loss occurred. If the location of this group is unknown, restore benefits to the benefit group containing the primary person at the time the loss occurred.

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

461-165-0220

Replacing Lost, Stolen, Destroyed or Undelivered Checks

- (1) Issue replacement checks in compliance with ORS 293.475. Payment Alert procedures begin when a payee reports a check was lost, stolen, destroyed or not received, and completes an Affidavit Concerning the Lost Check.
- (2) Issue a replacement check if the original check is still outstanding and the payee claims any of the following:
 - (a) The original check was not received. Allow five postal service working days from the date the original check was issued before issuing a replacement;
 - (b) The original check was received, but not endorsed. Issue a replacement check without a waiting period if the unendorsed check was received and has been lost, stolen, or destroyed;

(c) The original check was received and endorsed, but not cashed before it was lost, stolen or destroyed. Issue a replacement check if:

(A) The check was destroyed and remnants of the check are provided as evidence; or

(B) The check was stamped by the payee "for deposit only".

(3) Replace dual-payee checks only if:

(a) The client completes an affidavit that the unendorsed check has been lost, destroyed, or stolen; or

(b) The client had endorsed the check and the second party completes an Affidavit Concerning the Lost Check. The second party must sign a statement that they will reimburse the state and will not hold the client responsible if the original check is negotiated. Issue the replacement check to the second party only (no dual-payee is required).

(4) Issue a replacement for an original check (which the payee has reported as lost, stolen, destroyed or not received) that is processed by the State Treasurer for payment only after:

(a) The Administrative Payments Unit has begun forgery procedures; and

(b) The client has completed a forgery packet.

(5) The written report by the Oregon State Policy on the handwriting analysis of the check signature is binding on the Division. The payee has the right to prove the analysis incorrect.

(6) Do not issue a replacement check in either of the following situations:

(a) The client fraudulently cashes a dual-payee check without the second party's signature. The second party can take civil action against the client to recover the money, but the branch office does not replace the check to the second party;

(b) A check has been direct deposited to the account specified by the client.

Stat. Auth.: ORS Ch. 183, 411.060, Ch. 414, 416 & 418

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

461-165-0230

Replacing FS Benefits

Do not replace FS benefits issued by a state other than Oregon. Replace FS benefits as follows:

(1) Assume that certified mail is delivered unless one of the following is true:

(a) The allotment has been returned to the Division or the Division receives U.S. Postal form 3811-A or other verification indicating no receipt or delivery of coupons; or

(b) The person who signs for the benefits is not in the household group, not visiting the household group and not living at the same address.

(2) The Division is not responsible for replacing ATP cards or food coupons lost or stolen after they are delivered to the address designated by the primary person or authorized representative.

(3) Replace ATP cards, food coupons or the value of food destroyed because of a verified disaster within 10 calendar days if all the following are true:

(a) The benefit group reports the disaster loss:

(A) During the validity period defined in OAR 461-165-0010 for ATP cards and food coupons; or

(B) For EBT, within one month of the disaster and the last issuance of FS benefits.

(b) The benefit group has not been issued two replacements for disaster losses within the past six months.

(c) The amount replaced does not exceed one month's allotment.

(4) Replace ATP cards and food coupons within 10 calendar days after they are reported lost or stolen from the mail only if all the following are true:

(a) For FS coupons and ATPs, the benefit group reports the ATP card or food coupons stolen during the validity period defined in OAR 461-165-0010.

(b) The benefit group completes an application for replacement within 10 days of reporting the loss.

(c) Sufficient time for mail delivery has passed. Allow at least six mailing days after the mailing date before considering replacement.

(d) The benefit group has not been issued two countable replacements in the last six months. Partial allotments due to agency error are not countable replacements.

(5) Replace short or damaged coupon allotments under the following conditions:

(a) The client reports the shortage within the period of intended use, and the worker determines that the client was entitled to the amount of coupons claimed to be missing.

(b) Replace food coupons or books returned because of manufacturing error or subsequent damages.

(c) Replace the value of the returned coupons. Examine books that contain portions of coupons and do not replace them if less than three-fifths of a coupon remains.

(d) If the client requests full replacement for a book, ensure that all the coupons are in the book. If any coupons are missing, determine if the client used them.

(6) Additionally for benefits issued via EBT:

(a) Replace EBT cards reported lost, stolen or not received after the client has been positively identified and their current card has been deactivated.

(b) Replace an EBT card that is damaged or not functioning properly after changing the card's status to "card damaged" and destroying the card.

(c) Do not replace EBT benefits when benefits are considered to be issued per OAR 461-165-0010.

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 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

461-165-0240

Handling Undeliverable, Unopened Benefits

- (1) When coupons in unopened envelopes are returned to the Division and the owner of the coupons cannot be located, or redirected coupons are not claimed, follow established procedures to dispose of the envelopes.
- (2) Cancel undelivered or undeliverable benefit checks after the Division makes reasonable efforts to locate 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 6-1994, f. & cert. ef. 4-1-94

461-165-0400

Child Care Provider Records Clearance

- (1) No person shall be eligible for payment as a child care provider per OAR 461-165-0180 without being free of a disqualifying criminal history (CH) or child protective service history (CPS) as specified in OARs 461-165-0410 and 461-165-0420.
- (2) Persons subject to records checks as specified in OAR 461-165-0180, section (3), shall complete and sign the authorization for records check, and a release of information, if necessary to complete a current records check.
- (3) AFS shall obtain CPS information from the State Office for Services to Children and Families (SCF), or other state equivalent.
- (4) AFS shall obtain criminal history through the Oregon Law Enforcement Data System (LEDS) on all child care providers and other persons subject to these OARs.
- (5) AFS may also conduct a national criminal history check through the Oregon State Police and Federal Bureau of Investigation.
 - (a) AFS will request a national criminal history check if criminal history information on the listing form or the Oregon criminal history check indicates possible out-of-state criminal history. Such persons may be denied eligibility for payment until the completion of a national criminal history check.
 - (b) When a national criminal history check is requested, the child care provider, or other subject person, shall provide two FBI fingerprint cards (FD258) taken by a law enforcement agency. Information listed on the card must include the applicant's name, SSN, date of birth, sex, race, height, weight, eye color, hair color and place of birth.
 - (c) The person whose history is being checked shall submit the fingerprint cards and a check or money order to pay the fee to AFS for processing fingerprints through the Oregon State Police.

Stat. Auth.: ORS 409.015 & 411.060

Stats. Implemented: ORS 409.015 & 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97

461-165-0410**Provider Listing; Disqualifying Criminal History**

This OAR explains the grounds for disqualifying child care providers from AFS based on their criminal records.

(1) AFS has determined that conviction for a serious felony involving violence, coercion or sexual abuse, especially with children or otherwise vulnerable persons, indicates behavior that substantially jeopardizes the safety of children, and is fundamentally inconsistent with responsibility for care of children, or access to children in care. Conviction of any person listed in OAR 461-165-0180, section (3), for any of the following crimes shall result in permanent disqualification for payment, except as provided by sections (5), (6) and (7) of this OAR:

- (a) Abandonment of a child (ORS 163.535);
- (b) Abuse of corpse I or II (ORS 166.087 and 166.085);
- (c) Aggravated murder (ORS 163.095);
- (d) Animal abuse I (ORS 167.320);
- (e) Arson I (ORS 164.325);
- (f) Assault I or Assault II (ORS 163.185 and ORS 163.175);
- (g) Child neglect I or II (ORS 163.547 and 163.545);
- (h) Compelling or promoting prostitution (ORS 167.017 and 167.012);
- (i) Criminal mistreatment I or II (ORS 163.205 and 163.200);
- (j) Criminally negligent homicide (ORS 163.145);
- (k) Displaying obscene materials to minors (ORS 167.080);
- (l) Disseminating obscene material (ORS 167.087);
- (m) Encouraging child sexual abuse I, II, or III (ORS 163.684 or 163.686 or 163.687);
- (n) Endangering the welfare of a minor (ORS 163.575);
- (o) Exhibiting an obscene performance to minors (ORS 167.075);
- (p) Failure to report child pornography (ORS 163.693);
- (q) Furnishing obscene materials to minors (ORS 167.065);
- (r) Incest (ORS 163.525);
- (s) Intimidation I or II (ORS 166.165 and 166.155);
- (t) Kidnapping I or II (ORS 163.235 and 163.225);
- (u) Manslaughter I or II (ORS 163.118 and 163.125);
- (v) Murder (ORS 163.115);

- (w) Paying for viewing sexual conduct involving a child (ORS 163.686);
- (x) Possession of weapons by inmates of institutions (ORS 166.275);
- (y) Rape I, II or III (ORS 163.375, 163.365 and 163.355);
- (z) Robbery I (ORS 164.415);
- (aa) Sadomasochistic abuse or sexual conduct in live show (ORS 167.062);
- (bb) Sending obscene materials to minors (ORS 167.070);
- (cc) Sexual penetration I or II (ORS 163.411 or 163.408);
- (dd) Sexual abuse I, II or III (ORS 163.427, 163.425 and 163.415);
- (ee) Sodomy I, II or III (ORS 163.405, 163.395 and 163.385);
- (ff) Using child in display of sexually explicit conduct (ORS 163.670);
- (gg) Any conviction for attempt, solicitation or conspiracy to commit any of the crimes listed in this subsection;
- (hh) Any crime in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes listed in this section.

(2) AFS has determined that conviction for a felony or misdemeanor involving serious offenses against persons or property indicates behavior that substantially jeopardizes the safety of children, and is inconsistent with responsibility for the care of children, or access to children in care. Conviction of any person listed in OAR 461-165-0180, section (3) for any of the following crimes shall result in disqualification for payment, except as provided by sections (5), (6) and (7) of this OAR. The period of disqualification is 10 years and begins at the time of conviction or the date of release from incarceration, whichever is later, and extends to the date the Child Care Provider Listing form is received by the Direct Pay Unit.

- (a) Adult using minor in commission of controlled substance offense (ORS 167.262);
- (b) Aggravated theft I (ORS 164.057);
- (c) Animal neglect I (ORS 167.330);
- (d) Arson II (ORS 164.315);
- (e) Assault III or Assault IV (ORS 163.165 and ORS 163.160);
- (f) Burglary I or II (ORS 164.225 and ORS 164.215);
- (g) Carrying of concealed weapons (ORS 166.240);
- (h) Certain felons forbidden to possess firearms (ORS 166.270);
- (i) Coercion (ORS 163.275);
- (j) Commercial drug offense (ORS 475.996);
- (k) Contributing to the sexual delinquency of a minor (ORS 163.435);
- (l) Criminal conspiracies (ORS 161.450);

- (m) Criminal non-Support (ORS 163.555);
- (n) Criminal trespass in possession of a firearm (ORS 164.265);
- (o) Penalties for distribution to minors (ORS 475.995);
- (p) Escape I or II (ORS 162.165 and ORS 162.155);
- (q) Failing to supervise a child (ORS 163.577)
- (r) Firearm used in felony (ORS 166.429);
- (s) Frequenting a place where controlled substances are used (ORS 167.222);
- (t) Illegally selling drug equipment (ORS 475.960);
- (u) Menacing (ORS 163.190);
- (v) Penalty for manufacture or delivery of controlled substance within 1,000 feet of school in violation of a permit (ORS 475.999);
- (x) Pointing a firearm at another (ORS 166.190);
- (y) Possession of destructive device (ORS 166.382);
- (z) Prohibited acts generally (ORS 475.992)
[NOTE: includes felony drug offenses only]
- (aa) Prohibited acts for registrants (ORS 475.993)
[NOTE: includes felony drug offenses only]
- (bb) Prostitution (ORS 167.007);
- (cc) Public indecency (ORS 163.465);
- (dd) Publicly displaying nudity or sex for advertising purposes (ORS 167.090);
- (ee) Racketeering (ORS 166.720);
- (ff) Resisting arrest (ORS 162.315);
- (gg) Robbery II or III (ORS 164.405 and 164.395);
- (hh) Sale or gift of explosives to children (ORS 166.480);
- (ii) Sexual misconduct (ORS 163.445);
- (jj) Stalking (ORS 163.732);
- (kk) Supplying contraband (ORS 162.185);
- (ll) Tampering with drug records (ORS 167.212);
- (mm) Theft by extortion (ORS 164.075);

- (nn) Unlawful paramilitary activity (ORS 166.660);
 - (oo) Unlawful use of a weapon (ORS 166.220);
 - (pp) Unlawful possession of machine guns, certain short barreled firearms and firearms silencers (ORS 166.272);
 - (qq) Unlawful manufacture of a destructive device (ORS 166.384);
 - (rr) Any conviction for attempt, solicitation or conspiracy to commit any of the crimes listed in this section;
 - (ss) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in this section.
- (3) AFS has determined that conviction for certain offenses against property, offenses involving fraud or deception, crimes against the public order and major traffic violations indicate behavior that may have a detrimental effect on children or jeopardize the safety of children, and are inconsistent with responsibility for the care of children or access to children in care. Conviction of any person listed in OAR 461-165-0180, section (3) for any of the following crimes shall result in disqualification for payment, except as provided by sections (5) and (6) of this OAR. The period of disqualification is 5 years and begins at the time of conviction or the date of release from incarceration, whichever is later, and extends to the date the Child Care Provider Listing form is received by the Direct Pay Unit.
- (a) Bribe receiving; witness (ORS 162.275; ORS 162.025; ORS 162.265);
 - (b) Criminal driving while suspended or revoked or in violation of a permit (ORS 811.182);
 - (c) Criminal mischief I or II (ORS 164.354 and 164.365);
 - (d) Criminal possession of a forged instrument or forgery device (ORS 165.022 and ORS 165.032);
 - (e) Criminal trespass in the second degree (ORS 164.245);
 - (f) Disorderly conduct (ORS 166.025);
 - (g) Driving under the influence of intoxicants (ORS 813.010);
 - (h) Failure to appear I (ORS 162.205);
 - (i) Failure to perform duties of driver to injured persons; penalty (ORS 811.705);
 - (j) Failure to perform duties of driver when property is damaged (ORS 811.700);
 - (k) Failure to report missing precursor substances (ORS 475.955);
 - (l) Failure to report precursor substance (ORS 475.950);
 - (m) Fleeing or attempting to elude police (ORS 811.540);
 - (n) Forgery I or II (ORS 165.013 and 165.007);
 - (o) Forging, altering or unlawfully producing or using title or registration (ORS 803.230);
 - (p) Fraudulent use of a credit card (over \$750) (ORS 165.055);
 - (q) Harassment (ORS 166.065);
 - (r) Hindering prosecution (ORS 162.325);

- (s) Hit and run (ORS 811.700 and 811.705);
- (t) Negotiating a bad check (ORS 165.065);
- (u) Obstructing governmental or judicial administration (ORS 162.235);
- (v) Official misconduct I or II (ORS 162.405 and 162.415);
- (w) Perjury (ORS 162.065)
- (x) Possession of burglary tools (ORS 164.235);
- (y) Prohibited acts for registrants; penalties (ORS 475.993);
- [NOTE: misdemeanor drug offenses]
- (z) Prohibited acts generally; penalties; (ORS 475.992);
- [NOTE: misdemeanor drug offenses]
- (aa) Prohibited acts involving records and fraud; penalties (ORS 475.994);
- (bb) Providing liquor to a person under 21 or to intoxicated person; mandatory minimum penalties (ORS 471.410);
- (cc) Reckless driving (ORS 811.140);
- (dd) Recklessly endangering another (ORS 163.195);
- (ee) Tampering (ORS 162.285 and 162.305);
- (ff) Telephone harassment (ORS 166.090);
- (gg) Theft by receiving (ORS 164.095);
- (hh) Theft by deception (ORS 164.085);
- (ii) Theft I or II (ORS 164.055 and 164.045);
- (jj) Unauthorized use of a motor vehicle (ORS 164.135);
- (kk) Unlawful possession of firearms (ORS 166.250);
- (ll) Unlawfully obtaining public assistance (ORS 411.630);
- (mm) Unlawfully obtaining/using food stamps (ORS 411.840);
- (nn) Violation of release agreement (ORS 137.540);
- (oo) Any conviction for attempt, solicitation or conspiracy to commit any of the crimes listed in this section;
- (pp) Any crime in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes listed in this section.

(4) AFS may also deny eligibility for payment when the criminal history of the provider, or other person subject to these OARs, indicates behavior that may jeopardize the safety of children or have a detrimental effect on children in care:

- (a) Persons who have been arrested for any crime listed in section (1), (2) or (3) of this OAR, or are under warrant for

arrest, but final disposition has not been reached, or is not known, shall not be authorized for payment until such case is resolved. Such persons shall be required to provide sufficient documentation to clarify disposition of the charge(s) before the criminal history check is finalized.

- (b) The person was convicted of two or more crimes listed in sections (2) or (3) of this OAR, during any time period.
- (c) The person was convicted of two or more crimes, whether or not listed in this OAR, including a conviction for violation of probation, any of which relates to the person's qualification or duties as a child care provider, during any time period.
- (d) The person has two or more arrests for a crime or crimes listed in these OARs within the past five years, or has three or more arrests for a crime or crimes listed in these OARs during any time period.
- (e) The person provides misleading, false or incomplete information regarding pending charges or criminal history on any application or report provided to AFS.

(5) AFS will review provider eligibility with a disqualifying criminal history, upon request by the provider, to determine whether a subject person has changed behavior and does not present a danger to children in care, based on consideration of the following:

- (a) The nature of the crime;
- (b) The facts supporting the conviction, arrest or warrant;
- (c) Intervening circumstances since the incident; and
- (d) Information provided as requested by AFS.

(6) AFS may pay for the services of a child care provider with a disqualifying criminal history, defined by section (3) of this OAR only if AFS has determined, based on consideration of the information listed in section (6), that repeated criminal behavior is unlikely and that the provider does not present a danger to children in care.

(7) AFS may pay for the services of a child care provider with a disqualifying criminal history as defined by sections (1) and (2) of this OAR, only if all the following are met:

- (a) AFS has determined, based on the information provided in section (5), that repeated criminal behavior is unlikely, and the provider does not present a danger to children in care; and
- (b) Information has been shared with the parent regarding the criminal history; and
- (c) The parent specifically requests the provider be paid by AFS.

Stat. Auth.: ORS 409.015 & 411.060

Stats. Implemented: ORS 409.015 & 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97

461-165-0420

Provider Listing; Disqualifying Child Protective Service History

(1) The Division has determined that a founded report by SCF of child abuse, child neglect or failure to protect a child indicates behavior that jeopardizes the safety of children in care. If any person listed in OAR 461-165-0180, section (3),

has a Child Protective Service (CPS) record with a founded report by SCF of child abuse, child neglect or failure to protect a child, that shall result in disqualification for payment, except as provided in sections (2) and (3) of this OAR.

(2) AFS may reinstate a person who has a founded report by SCF of child abuse, child neglect or failure to protect a child, following a review of information provided to AFS. AFS will determine whether the information indicates the provider, or other subject person, has changed behavior and does not present a danger to children in care. The decision will be based on a consideration of whether:

- (a) The nature and the facts of the founded report, the length of time since the report, and the number of referrals, indicate that repeated behavior is unlikely.
- (b) The information provided indicates that subject individual has successfully participated in rehabilitation, training, or counseling to address behavior.
- (c) The information provided indicates that abuse of drugs or alcohol is unlikely.

(3) AFS may pay for the services of a child care provider with a disqualifying report of child abuse, child neglect or failure to protect a child, only if all of the following conditions are met:

- (a) AFS has determined, based on section (2) above, that repeated problem behavior is unlikely and that the person does not present a danger to children in care.
- (b) Complete information has been provided to the parent regarding the founded report.
- (c) The parent specifically requests that the provider be paid by AFS.

Stat. Auth.: ORS 409.015 & 411.060

Stats. Implemented: ORS 409.015 & 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97

461-165-0430

Child Care Provider Hearings

(1) Child care providers have the right to appeal any decision by AFS to deny eligibility for payment, or to establish an overpayment. Providers have a right to a contested case hearing only to dispute a denial for eligibility of payment or to dispute an allegation of an overpayment of child care payments.

(2) To delay repayment on an overpayment until a decision is made, the provider must complete a request for a hearing in writing and submit it to AFS within 15 days from the date of the overpayment notice.

(3) If AFS determines that a person subject to the requirements of OAR 461-165-0180 is not eligible for payment, AFS will send the provider a denial notice. The notice to the provider will include the following information:

- (a) The provider has the right to a hearing, if the request is made within 45 days of the notification date. Hearings are subject to OARs 461-025-0300 through 461-025-0385.
- (b) The provider must participate in a pre-hearing conference.
- (c) The request for a hearing must be in writing and include the following information:
 - (A) A copy of relevant court documents;

(B) A copy of any other document pertinent to the denial;

(C) Other information requested by AFS relevant to the listing denial.

(d) If the provider fails to provide the specified information within 45 days of the denial notice, or if the provider fails to participate in a pre-hearing conference scheduled by AFS, the provider loses the right to a hearing.

(e) Providers who do not request a hearing within the 45-day hearing request period or participate in a pre-hearing conference are not eligible to reapply for listing until 180 days following the date of the overpayment or listing denial notice.

(f) If a provider wishes to dispute criminal history information issued by the State Police, the provider must appeal the findings directly to OSP.

(g) If the provider believes the national criminal history is incorrect or incomplete, they should make application to the Assistant Director of the FBI Identification Division, Washington, DC and request the data be verified or corrected.

(h) If a provider wishes to dispute child protective service information, the provider must appeal the findings directly to SCF.

(i) If the provider requests a hearing on a denial of eligibility for payment, the provider continues to be ineligible for payment pending the hearing decision. The provider is not eligible for payment until after eligibility is approved, unless the decision to deny eligibility was based on a mistake in identifying the person with the CH or CPS record.

Stat. Auth.: ORS 409.015 & 411.060

Stats. Implemented: ORS 409.015 & 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 170

REPORTING CHANGES

461-170-0010

Reporting Changes; Overview

- (1) For changes that are required to be reported, clients may report by telephone, office visit, report form, or other written notice. They must report within the following time frames:
- (a) Changes reported outside the MRS must be reported within ten days of occurring. The ten-day time frame starts when the change occurs:
 - (A) For earned income, clients have ten days to report from the first day work begins or ten days from the last day employment is terminated;
 - (B) For unearned income, the ten-day time frame starts as soon as the client is aware of the change.
 - (b) Changes required to be reported through the MRS must be reported on the Monthly Change Report form designated by the Division and according to MRS requirements;
 - (c) Clients using APR must report changes according to OAR 461-170-0015 and 461-170-0020. For clients using APR who report changes in amount of income outside the Periodic Review form, act on the change as soon as notice requirements allow.
- (2) Changes are considered reported effective the date the information is received by the Division.
- (3) Changes reported for one program are considered reported for all programs in which the client participates, and should be acted on according to the requirements of each program.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.816

Stats. Implemented: ORS 411.105 & QRS waiver from FNS

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 19-194, f. & cert. ef. 9-1-94

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

461-170-0015

Changes That Must Be Reported; ERDC

ERDC clients must report the following changes:

- (1) Changes as required by the Periodic Review form and according to APR requirements.
- (2) The following changes within 10 days of occurring. If these changes are reported for another program, they are considered reported for ERDC:
 - (a) Changes in members of the filing group, and any resulting changes in income.
 - (b) Changes of address.
 - (c) Changes in source of income, including the loss of a job, and related changes in the amount of income.
 - (d) Changes in the rate of pay.
 - (e) Changes in child care providers.
 - (f) For ERDC-SBG, changes in the student caretaker's alien status and student status.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.105

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 13-1994, f. & cert. ef. 7-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 19-1997, f. & cert. ef. 10-1-97

461-170-0020

Changes That Must be Reported; ADC-BAS, FS

For ADC-BAS and FS, clients are required to report the following changes. The Division cannot require that they report additional changes.

- (1) All clients in the MRS must report changes in income as required by the Monthly Change Report. In addition, they must report the changes listed in section (2) of this OAR as they occur.
- (2) All clients are required to report the following changes within 10 days of occurring, unless the change is income-related and they are required to report it via the MRS:
 - (a) Changes in members of the filing group and any resulting changes in income.
 - (b) Changes in employment, including getting a job, quitting or losing a job.
 - (c) Changes in source of income.
 - (d) For clients not using APR, changes in income of more than \$25, except for averaged, prorated or annualized income.

For these types of income, clients are required to report changes only if income sources or rates of pay change and are reasonably certain to change the averaged, prorated or annualized amount by more than \$25.

- (e) The acquisition or change in ownership of nonexcluded vehicles.
 - (f) The sale or receipt of resources that cause total resources to exceed program resource limits.
 - (g) Change in residence, including changes in shelter costs resulting from the move.
 - (h) A benefit group member's noncompliance with OFFSET when that person is a mandatory participant.
 - (i) A change of more than \$25 in the amount of legally obligated child support being paid or a change in the legal obligation to pay the support.
- (3) Additionally for FS, all clients using APR must report changes in amount of income as required by the Periodic Review form. In addition, they must report the changes listed in section (2) of this OAR as they occur.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.105

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 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 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

461-170-0030

Changes That Must be Reported; Not ADC-BAS, ERDC, FS, OHP

For all programs except ADC-BAS, ERDC, FS and OHP, clients are required to report within 10 days all changes in income, resources, and circumstances that may affect their eligibility for benefits or the amount of benefits they receive.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.105

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 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 19-1997, f. & cert. ef. 10-1-97

461-170-0035

Reporting Changes; OHP

For OHP, clients are required to report, within 10 days, changes in:

- (1) Address.
- (2) Name.
- (3) Other health care coverage.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.025(2)(u)

Hist.: AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96

461-170-0040

Late, Incomplete or Non-Reporting

- (1) If the Division discovers that clients failed to report changes they are required to report and, as a result, the benefit group received benefits they were not entitled to, the Division must file an overpayment against the financial group.
- (2) For FS, a financial group cannot be held liable for an overpayment because of a change they are not required to report.
- (3) If a reported change results in insufficient information to determine how the change will affect the benefit group's eligibility and benefit level, the Division may shorten the redetermination period and require a new application.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.105

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-170-0100

Criteria for Using MRS

- (1) Do not place filing groups in the MRS unless:
 - (a) They are required to participate in the MRS per section (2) of this OAR; or
 - (b) The worker determines the MRS is needed to track whether an ABAWD is meeting the work requirement of OAR 461-135-0520 subsection (5).
- (2) For ADC-BAS, FS, REF and REFM, the following filing groups must participate in the MRS, unless they are specifically excluded per section (3) of this OAR:
 - (a) Filing groups that are in the MRS for another program.
 - (b) Filing groups that have countable earned or unearned income that is not the same every month and cannot be averaged, converted, or annualized.
- (3) All the following filing groups are excluded from participating in the MRS:
 - (a) ADC-BAS and FS filing groups that include a member working under a JOBS Plus agreement.
 - (b) ADC-EA, ADCM and ERDC filing groups.
 - (c) FS filing groups in which any of the following is true:
 - (A) At least one member is a migrant or seasonal farm worker.
 - (B) All members are homeless.
 - (C) All adult members are elderly or disabled, and no financial group member has earned income.

(D) At least one member is receiving ERDC, unless they are required to be in the MRS because they are in another program and meet the criteria in section (2) of this OAR. However, if they are on ERDC for only one month because periodic income put them over income for ADC-BAS, continue them in the MRS.

(d) OHP filing groups for their OHP benefits. They may be in the MRS for their other program benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.105

Hist.: AFS 70-1989, f. 11-30-89, cert. ef. 12-1-89; 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 19-1993, 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 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 9-1997, f. & cert. ef. 7-1-97

461-170-0110

When a Monthly Change Report is Considered Complete

(1) Clients in the MRS must report to the branch office every month, using the Monthly Change Report Form. A Monthly Change Report is considered complete when it is received by the branch within the payment month and all the following are done:

- (a) The client answers, completely and accurately, all questions necessary to determine eligibility and compute benefit amount;
- (b) The client provides all required verification requested by the worker;
- (c) The report contains the signature of the primary person or the authorized representative of the case.

(2) The branch office must receive a completed Monthly Change Report from the client before establishing eligibility for the payment month. The branch office uses information from the budget month to determine benefits for the payment month.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.105 & 7 CFR 273.21(j)

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

461-170-0120

Change Report Incomplete or Not Received

If the branch office does not receive a completed Monthly Change Report by the last day of the payment month, do the following:

- (1) For FS and OSIPM-MN, suspend benefits for the payment month.
 - (a) If no Monthly Change Report form is received for the suspend month, close the case effective the end of that month.
 - (b) If a completed Monthly Change Report form is received for the suspend month, use it to determine eligibility and benefit level for the next month.

(2) For all other programs, close the case effective the end of the budget month.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.105

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

461-170-0150

Averaging With Periodic Review (APR)

(1) Use APR for the following groups:

(a) All ERDC clients.

(b) All FS filing groups who have at least one member receiving ERDC, except in the circumstances described in (A) and (B) below. When ERDC benefits end for any reason other than failure to return the *Periodic Review Form*, remove the FS case from APR for the next regular monthly issuance.

(A) If the APR period is anything other than three months long (e.g., five months), budget FS prospectively via change reporting: do not put the FS case in the APR.

(B) FS filing groups do not use APR if they contain a member working under a JOBS Plus agreement.

(2) The length of the APR period is as follows:

(a) When the need for child care occurs within two consecutive calendar months or less, the length of the APR period will be as follows:

(A) If the child care need occurs within one calendar month, the APR period will consist of that month only.

(B) If the child care need occurs within two consecutive calendar months, the APR period will consist of those two months only.

(b) When income can be reasonably anticipated for four months or more, the APR period can be four, five or six months.

(c) For all other cases, the APR period is three months.

(3) For ongoing cases, shorten the APR period, or re-average future income over the remaining months of the period, when clients report the following changes between periodic reviews:

(a) An anticipated change in income that results in a future averaged income amount that is different from the current averaged income amount; or

(b) They have received or will receive a new source of income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.105

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

461-170-0160

When a Periodic Review Form is Considered Complete

(1) Clients using APR must report to the branch office every three months, using the Periodic Review form. A Periodic Review form is considered complete when it is received by the branch by the last day of the last month in the review period and all the following are done:

- (a) The client answers, completely and accurately, all questions necessary to determine a copay amount and FS benefits for the following APR period;
- (b) The client provides all required verification;
- (c) The form contains the signature of the primary person or the authorized representative.

(2) The branch office must receive a completed Periodic Review form from the client before establishing a copay amount and FS benefits for the following APR period.

Stat. Auth.: ORS 411.060 & 411.105

Stats. Implemented: ORS 411.105

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

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 and FS benefit level for the next period. The next APR period begins on the first of the month following the last month of the previous period.

Stat. Auth.: ORS 411.060 & 411.105

Stats. Implemented: ORS 411.105

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

461-170-0200

State and Federal Government-Initiated Changes

Some changes initiated by the state or federal government may affect the entire caseload or significant portions of the caseload. Because the Division is informed of these changes by the agencies responsible, clients are not required to report these changes. These changes include:

- (1) Periodic cost-of-living adjustments to SSB.
- (2) Periodic cost-of-living adjustments to ADC, ERDC, GA, OSIP and REF standards.
- (3) Other changes in eligibility criteria based on legislative or regulatory actions.
- (4) Additionally for FS:
 - (a) Periodic cost-of-living adjustments to SSI benefits;
 - (b) Annual adjustments to the countable and adjusted income limits, Thrifty Food Plan, dependent care, excess shelter and the standard deduction (effective each October);
 - (c) Annual and seasonal adjustments to the state's utility standard, effective on April 1 and October 1 of each year.

Stat. Auth.: ORS Ch. 183, 411.060, 411.105, 411.111, 411.630, Ch. 414, 416 & 418

Stats. Implemented: ORS 411.105

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1993, f. & cert. ef. 7-1-93

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 175

DECISION NOTICES

461-175-0010

What a Decision Notice Must Include

(1) A decision notice is a written notice sent to the filing group describing the action taken on an application or the benefit group's benefits. Notices can be computer-generated or sent by the worker. A decision notice must do all the following:

- (a) Specify the action the Division intends to take, the effective date of such action, and the date the notice is mailed;
- (b) Specify the reason(s) for the action;
- (c) Provide the name and phone number of the division staff person or department to contact for additional information;
- (d) Inform the client of their right to a hearing before an impartial person;
- (e) Specify the method and time frame for requesting a hearing;
- (f) Inform the client of their right to a prehearing conference with the branch office/unit/agency staff making the decision;
- (g) Inform the client of their right to representation, including legal counsel, and their right to have witnesses testify on their behalf;
- (h) Provide information about the availability of free legal help;
- (i) For all programs except FS, cite the rule(s) that supports the action.

(2) In addition to containing the decision notice information listed in section (1) of this rule, the continuing benefit decision notice and timely continuing benefit decision notice must inform clients of their right to continuing benefits as follows:

- (a) Clients are entitled to continuation of benefits if they request a hearing by the later of the following:

- (A) Within 10 days of the mailing of the notice; or
 - (B) On or before the effective date of the action;
 - (C) If the deadline for requesting a hearing falls on a weekend or holiday, extend the deadline to the next working day.
- (b) Any benefits paid while awaiting the hearing's final order are considered an overpayment if the decision is in favor of the Division's action, except as follows:
- (A) JOBS or JOBS Plus disqualification hearings;
 - (B) FS employment program disqualifications as a result of any of the following:
 - (i) Job quits;
 - (ii) Failure to cooperate with employment programs under OAR 461-130-0265;
 - (iii) Disqualifications for noncooperation with JOBS or UC employment programs.
 - (C) Hearings on overpayment recovery issues.

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 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

461-175-0030

Types of Decision Notices

- (1) A basic decision notice:
 - (a) Is mailed no later than the planned date of action;
 - (b) Contains all the information required in a decision notice, including the right to a hearing;
 - (c) Does not give the client the right to continuation of benefits.
- (2) A continuing benefit decision notice:
 - (a) Is mailed in time to be received by the date benefits are, or would be received;
 - (b) Contains all the information required in a decision notice, including the right to a hearing;
 - (c) Gives information on the benefit group's right to continuing benefits.
- (3) A timely continuing benefit decision notice:
 - (a) Is mailed no later than ten calendar days before the effective date of the action:
 - (A) Count the day after the notice is mailed as the first calendar day. The effective date is the 11th calendar day or later;
 - (B) If the tenth calendar day falls on a weekend or holiday, extend the date to the first working day after the end of the

ten day period.

(b) Contains all the information required in a decision notice, including the right to a hearing;

(c) Gives information on the benefit group's right to continuing benefits.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-175-0050

Notice Period

The notice period is used to determine the effective date for taking action when a decision notice is sent to the filing group:

(1) For a basic decision notice, the notice period is the month in which the notice is mailed.

(2) For a continuing benefit decision notice, 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, the notice period is the month in which the ten-calendar day mailing requirement ends.

Stat. Auth.: ORS 411.060, 411.105 & 411.730

Stats. Implemented: ORS 411.060

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92

461-175-0200

Notice Situations; General Information

(1) For all programs except OHP and the Assessment Program, unless stated differently in specific notice situation administrative OARs, send a decision notice as follows:

(a) Send a basic decision notice whenever benefits, including retroactive medical, are approved or denied; and

(b) Send a timely continuing benefit decision notice whenever benefits (including the amount, scope or duration of medical care service) are reduced or closed, or the method of payment changes to protective, vendor or two-party.

(2) Notices to reduce or close benefits become void if the reduction or closure is not initiated on the date stated on the notice, unless the delay resulted from the client requesting a hearing. If the notice is void, a new timely continuing benefit decision notice is required to inform the financial group of a new date on which their benefits will be reduced or closed.

(3) Notices approving ADC-BAS, ADCM-BAS, REF and REFM-BAS benefits must inform clients, within one month following eligibility determination, of their opportunity to volunteer for JOBS participation and of the procedure for JOBS Program entry.

(4) For ADC-BAS and ADCM-BAS, send a basic decision notice if benefits are ended because the only eligible child is deceased.

(5) For ADC-EA and ADCM-EA, send a basic decision notice for all situations.

(6) For OHP:

(a) Send a basic decision notice when benefits are approved or denied, when the premium amount changes and when benefits are ended because the OHP certification period has ended.

(b) Send a timely continuing benefit decision notice whenever benefits are otherwise reduced or closed.

(7) For the Assessment Program, send a basic decision notice when payment for basic living expenses is denied. No other notices are required for this program.

(8) No decision notice is required if:

(a) Benefits are ended because the only eligible person(s) is deceased; or

(b) A hearing order upholds a Division decision, and notice was sent before the client requested the hearing.

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 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

461-175-0203

Notice Situation; ADCM-EXT

When ADC-BAS benefits end, send a basic decision notice notifying the benefit group of the following:

(1) Its right to ADCM-EXT benefits; and

(2) The fact that ADCM-EXT will end the month the benefit group ceases to include an eligible dependent child.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: 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 8-1997(Temp), f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97

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 FS, a basic decision notice.

(2) For FS:

- (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 Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-175-0207

Notice Situation; Child Care Benefit Calculation

For ADC-BAS, ERDC and REF child care benefits, send a continuing benefit decision notice when benefits are calculated per 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

461-175-0210

Notice Situation; Client Moved or Whereabouts Unknown

- (1) To end benefits if a client has moved out of state, send the following notice:
 - (a) For ADC, ADCM, ERDC, GA, GAM, OHP, OSIP, OSIPM, QMB, REF and REFM:
 - (A) Send a timely continuing benefit decision notice to clients who have moved out of state. For clients in MRS, send a continuing benefit decision notice if the move is reported in the Monthly Change Report.
 - (B) Send a basic decision notice if the client becomes eligible for benefits in another state.
 - (b) For FS, no decision notice is required if the Division determines that the benefit group has moved out of Oregon.
- (2) If Division mail has been returned with no forwarding address, give clients their benefits if their whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when FS benefits can be sent out of state. If the client's whereabouts are unknown, end benefits by sending the following notice to their last known address:
 - (a) For all programs except FS, a basic decision notice.
 - (b) For FS, no notice is required.
- (3) If a client fails to pick up branch-held FS benefits for two consecutive months, end benefits by sending a basic decision notice.

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 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

461-175-0220

Notice Situation; Disqualification

(1) If a benefit group or individual is disqualified for FS voluntary job quit, or for failure to apply for or provide an SSN, pursue assets, cooperate with JOBS, JOBS Plus or OFFSET, or efforts to collect support, send the following notices:

(a) If benefits are reduced or closed because of the disqualification:

- (A) Send a continuing benefit decision notice for changes reported on the Monthly Change Report or Periodic Review forms; or
- (B) Send a timely continuing benefit decision notice for changes not reported on the Monthly Change Report or Periodic Review forms.

(b) If benefits are opened without the disqualified individual in the benefit group or if the entire benefit group is denied assistance, send a basic decision notice.

(2) For JOBS, JOBS Plus and OFFSET disqualifications, and FS voluntary job quits, the notice must include all of the following:

- (a) The client action that resulted in disqualification.
- (b) The length of the minimum disqualification period.
- (c) The reduced benefit amount.
- (d) How they can end the disqualification after the minimum period.

(3) For ADC, ADCM and FS IPV disqualifications:

- (a) A basic decision notice is required if a benefit group or benefit group member is disqualified for an IPV as the result of a court of law or an administrative hearing. This is true only when the client has been notified of the court order or hearing decision.
- (b) A continuing benefit decision notice is required if a benefit group or benefit group member is disqualified for IPV based on a signed waiver.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

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 Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-175-0230

Notice Situation; Institutions/NSLA

(1) For all programs except FS, send a basic decision notice to end or reduce benefits in the following situations. For FS, send a timely continuing benefit decision notice:

- (a) The client has been admitted or committed to an institution;
- (b) The client has been placed in skilled nursing care, intermediate care or long-term hospitalization;
- (c) The level of care changes or care ends, and the amount of the client contribution changes;
- (d) The client is placed in official custody or a correctional facility;
- (e) The client receives Title XIX waived services, and has not paid their excess income toward the cost of their services. The notice should include information about other Medicaid programs the client may be eligible for.

(2) For FS, no decision notice is required if the Division determines ineligibility because of one of the following:

- (a) A drug/alcohol treatment program:
 - (A) Is disqualified by FCS as an authorized representative; or
 - (B) Loses its certification with the Oregon Office of Alcohol and Drug Programs.
- (b) A non-relative AFC loses its MHDDSD or SDSD/AAA license.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.710

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 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95

461-175-0240

Notice Situation; Lump-Sum

(1) If the Division establishes that a financial group received lump-sum income that will reduce or end benefits, do the following:

(a) Deny benefits to applicants and send a basic decision notice;

(b) Close or reduce benefits for ongoing benefit groups and:

(A) For changes reported on the Monthly Change Report or Periodic Review forms, send a continuing benefit decision notice;

(B) For changes not reported on the Monthly Change Report or Periodic Review forms, send a timely continuing benefit decision notice.

(2) For ADC-BAS, GA, OSIP and REF, the decision notice must include:

(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 (if any) that will be carried over as countable income to the first eligible month.

Stat. Auth.:ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.060

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

461-175-0250

Notice Situation; Mass Changes

(1) Changes initiated by the state or federal governments may affect the entire caseload or significant portions of the caseload. All the following mass changes require a basic decision notice for all programs except FS. For FS, no notice is required:

(a) Periodic cost-of-living adjustments to SSB, SSI, and other federal benefits;

(b) Other changes in eligibility criteria based on legislative or regulatory actions;

(c) Periodic adjustments to ADC, ERDC, GA, OSIP and REF payments.

(2) For the following FS changes, no notice is required:

- (a) Annual adjustments to the income limits, shelter deduction and standard deduction;
- (b) Annual and seasonal adjustments to the state's Standard Utility Allowance.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1994, f. & cert. ef. 7-1-94

461-175-0260

Notice Situation; Medical Care Denial

For ADCM, GAM, OHP, OSIPM and REFM, send a basic decision notice if a request for a medical need is denied for any of the following reasons:

- (1) The client's condition fails to meet the criteria of medical necessity.
- (2) Upon review by a licensed medical professional, medical care has not been determined to be medically necessary.
- (3) The requested medical care has a lower funding priority than the Division is currently allowing.

Stat. Auth.:ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94

461-175-0270

Notice Situation; MRS, APR

- (1) When benefit groups are initially entered into the MRS or start using APR and each time they are re-entered, send:
 - (a) A basic decision notice for GA, GAM, OSIP, OSIPM and QMB;
 - (b) A continuing benefit decision notice for all other programs.
- (2) When taking action on information reported on the Monthly Change Report or Periodic Review forms:
 - (a) Send a continuing benefit decision notice for ADC, ADCM, ERDC, FS, REF and REFM. Except for ERDC and FS, the notice must include:
 - (A) The amount of income used to determine the benefits or ineligibility; and
 - (B) The amount of each deduction; or
 - (C) The reported nonfinancial change(s) that affects eligibility.
 - (b) No notice is required for GA, GAM, OSIP, OSIPM and QMB.
- (3) For all changes not reported on the Monthly Change Report or Periodic Review forms, send a timely continuing benefit decision notice.

(4) For benefit groups in the MRS, when ending ADC-BAS benefits because of information acquired through the match with the child support computer system, send a continuing benefit decision notice.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

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 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

461-175-0280

Notice Situation; Nonreceipt of MRS or APR Form

(1) For ADC-BAS, ADCM and REF, send a continuing benefit decision notice when the benefit group was able but failed to return the Monthly Change Report Form by the tenth calendar day of the payment month. The notice must inform the benefit group of the following:

- (a) The form has not been received by the Division by the tenth day of the payment month;
- (b) The benefit group has until the end of the payment month to send in the report to receive benefits for the payment month;
- (c) They will not receive the earned income deductions;
- (d) If the form is not received by the Division by the last day of the payment month, benefits will be closed effective the last day of the budget month.

(2) For ERDC, send a continuing benefit decision notice to close benefits when the benefit group failed to return the Periodic Review form by the last day of the last month in the APR period.

(3) For FS clients in the MRS, send a continuing benefit decision notice when the benefit group was able but failed to return the Monthly Change Report form by the 15th calendar day of the payment month. The notice must inform the benefit group of the following:

- (a) The form has not been received by the Division by the 15th day of the payment month;
- (b) The benefit group has until the end of the payment month to send in the report to receive benefits for the payment month;
- (c) If the form is not received by the Division by the last day of the payment month, benefits will be suspended effective the last day of the budget month;
- (d) The case will remain in suspended status for an additional month, then the case will be closed.

(4) For FS clients using APR, send a timely continuing benefit decision notice when the benefit group was able but failed to return the Periodic Report form by the tenth day of the last month of the APR period. The notice must inform the benefit group of the following:

- (a) The form has not been received by the Division by the tenth day of the last month of the APR period;
- (b) The benefit group has until the last day of the APR period to send in the report to receive benefits for the next period;

(c) If the form is not received by the Division by the last day of the APR period, FS benefits will close effective that date.

(5) For GA, GAM, OSIP and OSIPM, no notice is required.

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 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

461-175-0290

Notice Situation; Overpayment Repayment

(1) Send a timely continuing benefit decision notice the first time a filing group is notified their benefits are being reduced for recovery of an overpayment.

(2) If any member of the filing group that received the decision notice described in section (1) of this rule receives benefits in another filing group, send a timely continuing benefit decision notice.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.116, 411.120, 411.816, 414.042, Ch. 416 & 418

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 28-1992, f. & cert. ef. 10-1-92

461-175-0300

Notice Situation; Prior Notice

(1) Send a basic decision notice if the benefit group was informed in writing when their benefits began that they would receive benefits only for a specific period of time.

(2) Send a basic decision notice 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 is required if removal results in benefit closure.

(3) For ADC-EA and ADCM-EA, no decision notice is required if the client received a decision notice at the time of application, stating that the emergency assistance was allowed for only a 30-day period.

(4) For ADC-PLS, send a basic decision notice when an employer submits a Wage Reimbursement Billing and a supplement calculation is done, if:

(a) 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

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

(5) For FS, no decision notice is required if the client received a decision notice at the time of application or redetermination that stated any of the following:

- (a) The benefit group's allotment would vary from month to month and listed the anticipated changes;
- (b) Due to a joint application for cash and FS benefits, the FS benefits would be reduced or closed upon approval of the cash assistance;
- (c) For a benefit group that has had verification postponed for expedited benefits, that receipt of benefits beyond the month of application depends on the client providing required verification. In such cases, the branch office may act on the verified information without further notice.

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060

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

461-175-0305

Notice Situation; Removing a Person

- (1) To remove a person from an ongoing benefit group, or from an ongoing ERDC need group, send the following notice:
 - (a) For information reported on the Monthly Change Report or Periodic Review forms, send a continuing benefit decision notice;
 - (b) For all changes not reported on the Monthly Change Report or Periodic Review forms, send a timely continuing benefit decision notice.
- (2) For ADC-BAS and ADCM-BAS, if a child is removed from the benefit group as a result of a court decision or a voluntary placement in foster care by their caretaker relative, send a basic decision notice.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 45 CFR 205.10 (a)(4)(ii)(G)

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

461-175-0310

Notice Situation; Resource Transfer Disqualification

If the Division disqualifies a filing group due to an invalid transfer of resources, send the following notice:

- (1) For new applicants, a basic decision notice.
- (2) For ongoing clients, a timely continuing benefit decision notice.
- (3) The notice must include:
 - (a) The amount of uncompensated value used in the eligibility determination; and
 - (b) The period of ineligibility.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-175-0320

Notice Situation; Restoring FS Benefits

(1) For FS, restore benefits as soon as the Division establishes entitlement to restoration. Send a basic decision notice informing the benefit group of the following:

- (a) The amount to be restored, any offsetting that was done and the method of restoration; and
- (b) The benefit group's right to appeal through the hearing process if they disagree with any aspect of the proposed benefit restoration.

(2) No decision notice is required if the benefit group has been receiving an increased allotment to restore benefits and the restoration is complete. The benefit group must have been previously notified in writing of the date the increased allotment ends.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-175-0330

Notice Situation; Spend-Down for MN

For OSIPM-MN, send a basic decision notice when:

- (1) The application for benefits is approved pending a spend-down; or
- (2) The client has met spend-down.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-175-0340

Notice Situation; Voluntary Action

(1) Use the following criteria to determine if a decision notice must be sent when the filing group states they wish to withdraw their request for benefits, or the benefit group states they no longer wish to receive benefits:

- (a) For all programs except FS:

- (A) If the request is made by phone or in person, send a timely continuing benefit decision notice;
- (B) If the request is written and signed by the primary person, another adult member of the filing group, or the authorized representative, send a basic decision notice.

(b) For FS:

- (A) If the request is made by phone, send a timely continuing benefit decision notice;
- (B) If the request is made in person, send a basic decision notice;
- (C) If the request is written and signed by the primary person, another adult member of the filing group, or the authorized representative, no notice is required.

(2) For FS, send a timely continuing benefit decision notice if the benefit group returns a signed Change Report form with information that requires a reduction or closure of benefits.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

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

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 180

EFFECTIVE DATES

461-180-0005

Effective Dates; Acting on Changes for Cases Using APR

- (1) For changes reported on the Periodic Review form, the effective date is:
 - (a) The first day of the next APR period; or
 - (b) If changes will end benefits, the last day of the current APR period.
- (2) For changes not reported on the Periodic Review form:
 - (a) For changes that require the APR period to be shortened, the effective date for the end of the 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 APR 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 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, 411.620, 411.630, 411.632, 411.640, 411.650, 411.700 & 411.816

Stats. Implemented: ORS 411.060

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

461-180-0010

Effective Dates; Adding a New Person to an Open Case

(1) For all programs except ERDC, the effective date for adding a new person (other than an assumed eligible newborn) to the benefit group is one of the following:

(a) For ADC-BAS, GA, OSIP, and REF, 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, add the person the first of the month following the month in which the notice period ends.

(b) For ADC-BAS and REF, the effective date for adding a child to the provider-direct child care payment is the first of the month in which the child is added to the benefit group.

(c) For ADCM (except ADCM-EA), GAM, OHP, OSIPM and REFM, whichever of the following occurs first:

(A) The date the client requests benefits, if it is verified they were eligible as of that date; or

(B) The date all eligibility requirements are met.

(d) For ADC-EA and ADCM-EA, add a new person only during the 30-day time frame (OAR 461-135-0320).

(e) For FS:

(A) If adding the person increases benefits, the effective date is the first of the month after the filing group reports the person has joined the household group.

(B) If adding the person reduces benefits, the effective date is the first of the month following the month in which the notice period ends.

(f) For QMB-BAS and QMB-DW, the first of the month after the new person has been determined to meet all QMB eligibility criteria and the Division receives the required verification.

(g) For QMB-SMB, the first of the month in which the new person has been determined to meet all QMB-SMB eligibility criteria and the Division receives the required verification.

(2) For all programs except ERDC, the effective date for adding an assumed eligible newborn to the benefit group is one of the following:

(a) For ADC-BAS and REF:

(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 completed more than 45 days after the date of birth.

(b) For ADCM (except ADCM-EA), GAM, OHP, OSIPM and REFM, the date of birth, if all the following are true. If any of the following does not apply, add the newborn to the benefit group per section (1) of this OAR.

(A) A request for benefits is made within one year of the birth. (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 ADCM, GAM, OHP or OSIPM on the date of birth, even if she is not currently eligible for benefits.

(3) For ERDC, the effective date for adding a person to the need group or benefit group is as follows:

(a) If adding the person 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 person to the need group increases the copay (i.e., the person brings a new source of income), the effective date is the first of the month following the end of the decision notice period.

(c) The effective date for adding a child to the benefit group (i.e., covering the cost of their 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) If eligibility for newborns and other children 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

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 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

461-180-0020

EffectiveDates;ChangesinIncome/Deductions That Cause Increases

For all programs except cases using APR, use this rule to determine the effective date when changes in income or deductions cause an increase in benefits:

(1) For changes reported through the MRS, the effective date is the first of the payment month.

(2) For changes not reported through the MRS, the effective date is one of the following:

(a) For ADC-BAS, ADCM, FS and GA, 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;

(b) For OSIP, 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 tenth of the month following the month when the change occurred; or

(B) Ten days before reporting the change if it is reported after the tenth of the month following the month when the change occurred.

Stat. Auth.: ORS 411.060, 411.070, 411.620, 411.630, 411.632, 411.640, 411.650, 411.700 & 411.816

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 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

461-180-0030

Effective Dates; Changes in Income/Deductions That Cause Reductions

For all programs except cases using APR, use this rule to determine the effective date when changes in income or deductions cause a decrease in benefits:

- (1) When using retrospective budgeting, the effective date for the reduction is the first of the payment month.
- (2) When using prospective budgeting, the effective date for reducing benefits is the first of the month following the month in which the decision notice period ends.

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 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

461-180-0040

Effective Dates; Changes in Special or Service Need

- (1) The effective date for a special need is the date of request for the special need item.
- (2) The effective date for increases in service needs is the day the service plan is implemented.
- (3) The effective date for decreases in service needs is the latest of the following:
 - (a) The end of the ten day timely continuing benefit notice period; or
 - (b) The date of change in a special need or the service plan.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-180-0050

Effective Dates; Closing/Suspending Benefits

Use this OAR to determine the effective date for closing or suspending benefits for the entire benefit group.

- (1) When using prospective eligibility, the effective date for closing or suspending benefits is:
 - (a) For all cash and medical benefits for benefit groups in the MRS, the last day of the budget month; or
 - (b) For cash and medical benefits for benefit groups not in MRS, and for FS, the last day of the month in which the notice period ends.

- (2) When using retrospective eligibility or budgeting, the effective date for closing or suspending benefits is the end of the budget month.
- (3) When using prospective budgeting, the effective date for closing or suspending benefits is the last day of the month in which the notice period ends.
- (4) When an absent parent enters an ongoing ADC-BAS household, or another change occurs that could affect the incapacity or unemployment deprivation, the effective date for closing benefits is the last day in the month in which their 30-day eligibility period expires per OAR 461-125-0255.
- (5) For a pregnant female receiving ADCM or OSIPM, 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.
- (6) For OHP, the effective date for closing benefits is:
 - (a) The end of the month in which they become ineligible; or
 - (b) For all other OHP clients, no earlier than the last day of their certification 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 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

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 Ch. 183, 411, 414, 416 & 418

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

461-180-0065

Effective Dates; Ending Disqualifications

- (1) For ADC-BAS, ADCM-BAS, OHP, REF and REFM-BAS, the effective date for ending a JOBS disqualification is one of the following:
 - (a) The date the client meets the requirements for ending the disqualification (per OAR 461-130-0270), if the minimum disqualification period has ended, or the date that AFS becomes aware that the client meets the requirements, whichever occurs later.

(b) The day after the minimum disqualification period ends, if AFS determines the client meets the requirements during the minimum disqualification period.

(2) For ADCM-BAS, ADCM-EXT, ADCM-SAC, GAM, OHP, OSIPM (except OSIPM-MN) and REFM-BAS, the effective date for ending the disqualification for failing to enroll in cost-effective, employer-sponsored health insurance is the day the client provides verification that they have enrolled during the open enrollment period.

(3) For FS, the effective date for ending an employment program disqualification is the first of the month after the client fulfills the requirements to end the disqualification.

(4) For IPV disqualifications where the disqualified member is required to be in the same filing group with other members currently receiving benefits, end the disqualification the day after the minimum disqualification period ends, if there is no additional IPV disqualification to be served and the person meets all eligibility requirements.

(5) For all other disqualifications, end the disqualification whenever the client agrees to cooperate.

Stat. Auth.: ORS 411.060

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 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

461-180-0070

Effective Dates; Initial Month Cash Benefits

(1) For ADC-BAS (except with deprivation based on unemployment) and REF clients, and for GA and OSIP clients who do not need services to maintain themselves in the community, use both of the following to determine the effective date for starting cash benefits:

(a) The effective date is whichever of the following occurs first:

(A) The day all eligibility requirements are met and verified.

(B) The 30th calendar day from the date the client requests benefits, if all eligibility requirements were met, but the Division did not receive documentation until after the 30th day.

(C) The day on which the client becomes eligible for benefits, if all eligibility requirements are met and verified after the 30th calendar day following the request for benefits, but no later than the end of the application processing time frame.

(D) Additionally for ADC-BAS and REF, benefits cannot open earlier than the day after the Assessment Program ends.

(b) In addition, for ADC-BAS and REF benefit groups where the 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.

(c) For ADC-BAS and REF, the effective date of the provider-direct child care payment is the first of the month in which ADC-BAS or REF benefits begin.

(2) For ADC-BAS cases with deprivation based on unemployment, the effective date for starting cash benefits is the later of the following:

(a) The day all eligibility requirements are met and verified; or

- (b) The day the two consecutive weeks of completed applicant JOBS activities started.
- (3) For GA and OSIP applicants who require services to maintain themselves in the community, the effective date for starting cash benefits is whichever of the following occurs last:
 - (a) The date the service plan is implemented; or
 - (b) The date the client requests benefits.
- (4) For ADC-EA, the effective date for opening the case is the day benefits are issued to the benefit group. For benefit groups where the 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.
- (5) For ERDC-BAS and ERDC-SBG, 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, as long as:
 - (A) All eligibility 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 benefit groups that received ADC-BAS within the 30 days before applying for ERDC, the effective date is the first of the month following closure of their ADC-BAS 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 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

461-180-0080

Effective Dates; Initial Month FS Benefits

- (1) For FS filing groups making an initial application or applying after the end of their redetermination period, the effective date for starting benefits is one of the following:
 - (a) If verification is provided within one of the following time frames, the effective date is the filing date, 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.
 - (A) 30 days after the filing date.
 - (B) 30 days after the intake interview, if the 30-day application time frame is extended because of branch office delay.
 - (C) 60 days after the filing date, if the filing group is given extra time to provide required information per OAR 461-115-0210.
 - (b) If verification is not provided within the time frames listed in section (1)(a) of this OAR, the effective date for starting benefits is the date the required verification is provided, if all the following are true:

- (A) The verification is received between 30 and 60 calendar days after the filing date.
 - (B) No extra time was given to provide the verification.
 - (C) All eligibility requirements are met on the date the verification is provided.
- (2) The effective date for starting benefits is the first of the month for migrant and seasonal farmworkers that received FS benefits in another state the month before applying for FS in Oregon.

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 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

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits is one of the following:

- (1) For ADCM (except ADCM-EA and ADCM-EXT), GAM, OHP, OSIPM, QMB-DW and REFM-BAS, whichever of the following occurs first:
 - (a) The date the client requests benefits, if it is verified they were eligible as of that date; or
 - (b) The date all eligibility requirements are met.
- (2) For ADCM-EA, the day benefits are issued.
- (3) For ADCM-EXT, the first of the month following the month that ADC-BAS benefits ended.
- (4) For QMB-BAS, the first of the month after the benefit group has been determined to meet all QMB-BAS eligibility criteria and the Division receives the required verification.
- (5) For QMB-SMB, the first of the month in which the benefit group meets all QMB-SMB eligibility criteria and the Division receives the required verification.

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 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

461-180-0095

Effective Dates; Lump-Sum Ineligibility

- (1) This OAR applies to GA and GAM cases only.

(2) The effective date for starting the period of ineligibility due to the receipt of lump-sum income is the corresponding payment month in which the lump-sum income is received.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 27-1992(Temp), f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; 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

461-180-0097

Effective Dates; OHP Premium

- (1) For OHP premiums, the effective date is always the first of the month.
- (2) The effective date for applying the OHP premium for a new certification period is the month following the budget month.
- (3) The effective date for changing the amount of a premium per OAR 461-135-1120 is:
 - (a) The first full month in which a Health Plan New/Noncategorical (HPN) client qualifies as exempt from paying premiums;
 - (b) The first full month that an HPN client receives Medicaid through another program (e.g., ADCM);
 - (c) The month after:
 - (A) The household reports a change that affects the amount of the premium; or
 - (B) The number of nonexempt HPNs increases because a person is no longer pregnant or has lost their exemption.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 414.025(2)(u)

Hist.: AFS 36-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96

461-180-0100

Effective Dates; Redetermination

The effective date for continuing eligibility at the end of the redetermination period is one of the following:

- (1) If the redetermination form is received before the end of the last month of the redetermination period, the effective date for an eligible benefit group is the first of the month after the redetermination period.
- (2) If the redetermination form is not received before the end of the client's last month of eligibility:
 - (a) For all programs except FS, end benefits unless the filing group has:
 - (A) Contacted the branch before the end of the last month of the redetermination period; and
 - (B) Completed the redetermination within the month following the last month of the redetermination period.

- (b) For FS, end benefits unless the filing group has established a new filing date by submitting a written request for benefits that includes the name, address and signature of an appropriate person per OAR 461-115-0070;
- (c) If the redetermination form is received later, determine the effective date as if it were a new application.

Stat. Auth.: ORS 411.060, 7 CFR 273.1(d)

Stats. Implemented: ORS 411.060 & 7 CFR 273.1(d)

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 6-1994, f. & cert. ef. 4-1-94

461-180-0105

Effective Dates; Reductions Pending a Hearing Decision

When a reduction in benefits is delayed because the client requests a hearing, and the final order dismisses the hearing or upholds the Division's decision, the effective date for ineligibility or reducing benefits is as follows:

- (1) Disqualify the client the 1st of the month following issuance of the final hearing order, even if benefits end for any reason after the effective date on the disqualification notice for:
 - (a) JOBS or JOBS Plus disqualifications;
 - (b) FS employment program disqualifications as a result of any of the following:
 - (A) Job quits;
 - (B) Failure to cooperate with employment programs under OAR 461-130-0265;
 - (C) Disqualifications for noncooperation with JOBS or UC employment programs.
- (2) For all other reductions, use the original effective date as given in the continuing benefit decision notice. For ADC-BAS, also use that date to begin the period of ineligibility for lump-sum.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

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 a Person

For all programs except cases using APR, the effective date for removing a person from the benefit group is one of the following:

- (1) If the person has left the benefit group in the current budget month because they are ineligible, disqualified or left the household, the effective date is:
 - (a) For changes reported through the MRS:
 - (A) The first of the payment month, if the change will reduce benefits;
 - (B) The last day of the budget month, if the change will end benefits.
 - (b) For changes reported outside the MRS, and for all disqualifications:
 - (A) The first of the month after the notice period ends, if the change will reduce benefits; or
 - (B) The last day of the month in which the notice period ends, if the change will end benefits.
- (2) If the person 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 person leaves the household group, if the change will reduce benefits; or
 - (b) The end of the month in which the person is expected to leave the household group, if the change will end 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 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

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 one of the following:

(a) For errors resulting from Division error, use the date the error was made. For all programs except ADC-BAS, restore benefits only for the preceding 12 months. For ADC-BAS, benefits may be restored as far back as October 1, 1981;

(b) For errors resulting from client error, use the earliest of the following:

(A) The month the benefit group notifies the branch office of the possible loss;

(B) The month the branch office discovers the loss;

(C) The date a hearing is requested.

(2) The effective date for restoring benefits that have been suspended is:

(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. Treat the month in which benefits are restored as an initial month.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.111, 411.300, 411.632, 411.700, 411.710, 412.025, 412.520, 413.009, 414.032, Ch. 416 & 418

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

461-180-0140

Effective Dates; Retroactive Medical Benefits

(1) For ADCM (except ADCM-EA) and OSIPM:

(a) If a benefit group requests and is eligible for retroactive medical benefits, the earliest date they

can be eligible is three months before the date of request. For example, if the benefit group requests benefits on July 10, eligibility may begin as early as April 10;

(b) After establishing the earliest date, determine eligibility on a month-by-month basis. The period starts on the earliest established date and ends on the date the benefit group requests benefits. For example, if the benefit group requests

benefits on August 10, the earliest date is May 10. Establish eligibility separately for May 10 through May 31, June 1 through June 30, July 1 through July 31, and August 1 through August 9.

(2) For QMB-BAS:

(a) If a benefit group currently eligible for QMB-BAS requests and is eligible for retroactive medical benefits under ADCM or OSIPM, the earliest date they can be eligible is three months before the effective date for QMB-BAS;

(b) After establishing the earliest date, determine eligibility on a month-by-month basis. The period starts on the earliest established date and ends on the effective date for QMB-BAS. For example, if the benefit group requests benefits on

August 10 and the effective date is September 1, the earliest date the group can be eligible for retroactive medical benefits is June 1. Establish eligibility separately for June 1 through June 30, July 1 through July 31, and August 1 through August 31.

(3) If a benefit group currently eligible for QMB-DW requests and is eligible for retroactive medical benefits, the earliest date they can be

eligible is three months before the effective date of their initial eligibility.

(4) If a benefit group currently eligible for QMB-SMB requests and is eligible for retroactive payment of Part B Medicare premiums, the earliest date they can be eligible is three months before the effective date of their initial eligibility.

(5) If a benefit group currently eligible for REFM requests and is eligible for retroactive medical benefits, the earliest they can be eligible is the most recent of the following:

(a) The date the benefit group arrived in the United States; or

(b) Three months before the date of request.

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 2-1994, f. & cert. ef. 2-1-94

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**Oregon Administrative Rules
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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 185

TRUST AND AGENCY (T & A) ACCOUNTS

461-185-0010

T & A Overview, When to Use

- (1) T&A is a system for handling client funds when the Division is responsible for receiving and disbursing these funds. These accounts are set up when the Division is the client's representative payee for SSB, SSI, Veterans or other benefits;
- (2) Additionally, SDSD 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 Division.
- (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 Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

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 Division form.

Stat. Auth.: ORS 411.060 & 411.070

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

461-185-0050

Client Pay-In System

(1) Clients who receive waived in-home services and have countable income above the payment standard for the number in the benefit group must pay to the Division the lesser of the following as a condition of receiving waived in-home services:

- (a) The difference between their adjusted income and the payment standard for the number in the benefit group; or
- (b) The actual cost of the waived service.

(2) The Division will administer the pay-in system as follows:

- (a) Each month, the Division will send the client an invoice requesting payment based on the calculation in section (1) of this rule;
- (b) If the Division does not receive the payment by the 15th of the current month, these notices will be automatically generated:

- (A) A notice advising the client that services will end at the end of the month and giving information on other Medicaid programs; and
- (B) A notice to the service provider that the Division will not reimburse them for services provided past the end of the current month.

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 29-1994, f. 12-29-94, cert. ef. 1-1-95

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DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 190

EMPLOYMENT PROGRAMS

461-190-0010

Employment Program Administration; Delegate Authority

(1)AFS administers the AFS Employment programs; however, AFS may choose to delegate authority for all or part of the education, employment, training or support services to a state or local service provider. Services and payments are subject to availability of federal and state funds and may be terminated in part or in full by AFS if necessary federal or state authorization or funding is curtailed.

(2) The level of services provided by or on behalf of AFS may vary by geographic location. This range of services may include services provided to JOBS participants without cost to AFS.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

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

461-190-0020

Case Plans

AFS case managers work with clients to develop individual self-sufficiency plans. These plans are an agreement between the client and the agency for the actions the client will take and the support that AFS will provide. The plan may cover employment, training and other activities that promote the client's or their family's movement toward self-sufficiency. Self-sufficiency plans are identified on an AFS-approved form.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97

461-190-0110

Definitions for the JOBS Program

- (1) Activity: A defined set of actions intended to help a JOBS participant meet a specific goal.
- (2) Allocation: The AFS branch office budget for specific JOBS Program costs.
- (3) Assessment: The process of gathering information to identify a JOBS client's strengths, interests, family circumstances, JOBS status, and vocational aptitudes and preferences in order to mutually determine an employment goal, level or participation in JOBS and necessary support services.
- (4) Barrier: A personal or situational characteristic that hinders the client's employability. Barriers may be short or long term.
- (5) BASIS Testing: An activity in the Program Entry Component. The BASIS test establishes the client's functional literacy level.
- (6) Case Management: See case planning.
- (7) Case Plan/Employment Development Plan: A written outline of employment and training goals needed for a JOBS participant to attain self-sufficiency by finding and maintaining employment. A Case Plan may include activities to prepare the participant for employment or more effective participation in JOBS, and services to remove barriers to employment, training and job search. The Case Plan also describes which support service payments AFS will make to support participation in JOBS.
- (8) Case Planning/Case Management: The process of assessing client strengths and needs, developing a Case Plan, and monitoring and supporting client participation.
- (9) Completion: Satisfactorily fulfilling the Case Plan activity requirements. Full-time job placements that occur before an activity is finished count as the completion of that activity.
- (10) Component: JOBS services under FSA guidelines. JOBS components offered in Oregon are Basic Education, Job Readiness, Job Search, Job Skills, JOBS Plus, OJT, Program Entry, Self-Initiated Training, Sheltered/Supported Work, UN Work Program, Work Experience and Work Supplementation.
- (11) Employability: A demonstrated level of knowledge, skills, abilities, work behaviors and attitudes necessary to compete successfully in the labor market.
- (12) Employer contact: Client communication with an employer or employer representative through a visit, phone call or mail to request consideration for employment.
- (13) Employment application: A written document, usually an application form, completed by a client to be considered for employment. A resume may be an employment application if the employer accepts it as such.
- (14) Employment Development Plan (EDP): See case plan.
- (15) Employment interview: A person-to-person meeting between a client and an employer, or employer representative, during which the client is being considered for an open job or one that will become open.
- (16) Employment-related appointment: JOBS related referrals, meetings or visits required of clients by their worker and/or as directed in the Case Plan/Employment Development Plan.

- (17) English as a Second Language (ESL): An activity in the Basic Education Component. ESL classes are designed to give participants with limited English proficiency better working skills in the language.
- (18) Exempt: Clients who cannot be required to participate with JOBS.
- (19) Full-time employment:
- (a) For Work Supplementation and OJT, full-time employment is at least 30 hours per week or 100 hours per month for which monetary compensation is received. Employment of less than this is considered part time.
 - (b) For purposes of exemption from JOBS, full-time employment is one of the following:
 - (A) Thirty hours per week at the state minimum wage or higher, for which monetary compensation is received.
 - (B) Self-employment that involves working a minimum of 30 hours per week and receiving weekly countable earnings at least equal to the state minimum wage multiplied by 30 hours.
- (20) High School Attendance: An activity in the Basic Education Component. High school attendance means attendance at secondary school in the local school district.
- (21) Intake: The process of determining eligibility for AFS program benefits. The process begins with the applicant's first contact with AFS and ends with the eligibility determination or withdrawal of the application.
- (22) Intervention activity: A JOBS activity designed to lead to more effective JOBS participation. Appropriate intervention activities could include, but are not limited to, arranging for child care, dealing with transportation and medical issues, securing housing, parenting classes and crisis intervention. Intervention activities are AFS managed.
- (23) Job development: The process of contacting employers to solicit job orders, develop job openings, market JOBS participants and get interviews for participants.
- (24) Job ready: Clients who have no or only short-term (e.g., child care, transportation, etc.) employment barriers and qualify for one or more occupations in the local labor market that will prepare them for self-sufficiency. Additional guidelines to consider are whether the client has a work history, or completed occupational training, in the past 12 months.
- (25) Labor market assessment: A review and evaluation of an area's employment possibilities, including projected openings, new employment, job skills needed, available training programs, wages and labor supply.
- (26) Life Skills: The Job Readiness activity. It is intended to develop skills and attitudes, plus employment-preparation skills, that are part of everyday expectations, including those in the workplace. These skills include self esteem, goal setting, interviewing skills, taking responsibility, how to retain a job, time management, decision making, adaptability, parenting, budgeting, interpersonal skills, leadership, communication, etc. The activity may include vocational testing as a classroom activity.
- (27) Limited English proficiency: Limited ability to speak, write, read or understand English by a person whose native language is not English or a person who lives in a family or community where English is not the dominant language.
- (28) Mandatory: Clients who may be required to participate in JOBS or maintain employment to get full AFS program benefits.
- (29) Minimum wage: The wage established as the lowest hourly salary that can legally be paid for labor in certain occupations.
- (30) Orientation: A session that provides clients with information on AFS program benefits, the JOBS Program, related activities and services, clients' rights and responsibilities, and the requirement to pursue child support. This information

may be presented as a single orientation or in multiple sessions.

(31) Participant: An ADC-BAS, ADCM-BAS, REF or REFM-BAS client who has an Employment Development Plan in effect. Participation starts on the day active involvement begins and ends when the person exits the JOBS Program.

(32) Placement: A client securing employment while participating in the JOBS Program.

(a) Full-time placement: Work that meets all the following:

(A) 30 hours or more per week, with wages equal to or greater than the higher of either the state or federal minimum wage per hour.

(B) Expected to be permanent.

(C) Unsubsidized.

(b) Part-time placement: Work that meets all the following:

(A) Less than 30 hours per week, with wages equal to or greater than the higher of either the state or federal minimum wage per hour.

(B) Expected to be permanent.

(C) Unsubsidized.

(c) Temporary placement: Full-time or part-time placement that is expected to end at a specified time; e.g., seasonal work or a 6-month temporary assignment.

(33) Progress (good or satisfactory): In education or training, the JOBS participant is meeting a standard of achievement measured in a period of less than one year (such as a term or quarter). The educational institution or training program must develop a written standard consistent with its evaluation standards. The appropriate state or local education agency and the state welfare agency must approve the standard. Standards must include:

(a) In an education program, both a qualitative measure of progress, such as a specific grade point average, and a quantitative measure, such as a time limit for completion.

(b) In a training component, both a qualitative measure of progress, such as competency gains or proficiency levels, and a quantitative measure, such as a time limit for completion.

(34) Recidivism: A client returning to ADC-BAS or REF benefits at some specified period after initial job placement.

(35) Referral: Sending or directing a client to a contractor, partner or other service provider for evaluation, information, assistance, treatment or other services.

(36) Retention: Continued employment for some specified period after initial placement.

(37) Retention rate: The number of JOBS participants placed who are still employed at the end of a specific time period, divided by the total number of participants placed in a specific time period.

(38) Satisfactory participation: Attendance at all scheduled JOBS activities and completion of all assignments, unless the client has good cause not to do so.

(39) Self-sufficiency: Achieving an adequate standard of living without AFS program benefits, not including transitional payments or 12-month day care and medical benefits.

(40) Service district: An AFS geographic area that contains AFS branch office boundaries and is designated for local

JOBS planning, contracting and service delivery.

(41) Subsidized employment: A job in which the wages paid to an employee are financially supported by a state or local employment and training program.

(42) Support services: Services a JOBS client needs to be able to participate successfully in activities outlined in their Employment Development Plan, or to seek and maintain employment. Support services include:

(a) Payments for child care, transportation, etc.

(b) Drug and Alcohol Treatment.

(c) Mental Health Treatment.

(d) Other Counseling/Treatment.

(e) Teen Parent Counseling.

(43) Target groups: Groups identified by the federal government as being most at-risk to continue on long-term welfare without help from the JOBS Program. They are:

(a) People who have received ADC-BAS or REF cash benefits at least 36 months out of the last 60.

(b) A parent under age 24 or a pregnant teen who:

(A) Has not earned a high school diploma or GED and is not currently in school; or

(B) Has worked in a full-time job less than six of the last twelve months.

(c) People in a family in which the youngest child will be ineligible for ADC within two years.

(44) Teen parent: Custodial parents under age 20.

(45) Transition services: JOBS services provided for up to 90 days to JOBS participants who enter employment or who lose eligibility for ADC-BAS or REF benefits because they go over income or resources. For clients whose eligibility is based on entering employment, transition services also include medical benefits for up to 12 months (ADCM-EXT) and child care (ERDC).

(46) Unsubsidized employment: A job in which the wages paid to an employee are not financially supported by a state or local employment and training program.

(47) Vocational Testing: A detailed evaluation of a JOBS participant for one or more occupations. It includes testing specific vocational skills, aptitudes and abilities, and identifying the need for career counseling. It may also include identifying additional service needs.

(48) Volunteer: A person eligible for ADC-BAS, ADCM-BAS, REF or REFM-BAS who chooses to participate in JOBS. Volunteers may be either exempt or mandatory.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

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

461-190-0121

Orientation and Information Requirements; JOBS

All applicants for ADC-BAS, ADCM-BAS, REF and REFM-BAS receive an initial orientation to the JOBS Program. The method of orientation is optional, but it must contain all the following information:

- (1) Education, training and employment opportunities available through JOBS.
- (2) JOBS Program support services, including child care during participation, transitional child care, transitional medical coverage, transportation and other services.
- (3) AFS responsibilities under the JOBS Program.
- (4) The rights, responsibilities and obligations of JOBS participants, including the grounds for exemptions and the consequences for refusing or failing to participate.
- (5) Availability of appropriate child care.
- (6) Availability of Grand Ronde JOBS Program services for members of the Confederated Tribes of the Grand Ronde who are served by the Albina, Beaverton, Chemeketa, Dallas, East Portland, Hillsboro, McMinnville, Multnomah Teen Parent, North Portland, Northeast Portland, North Salem, Santiam Center, South Salem, Southeast Portland, Tillamook, West Portland or Woodburn AFS branches.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: 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 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-190-0131

Assessment; JOBS

All potential JOBS participants must complete the training request or the assessment before an initial Employment Development Plan (EDP) is completed. Other sources of information may be used to develop the full EDP.

Stat. Auth.: ORS 411.060, 411.816 & 414.042

Stats. Implemented: ORS 411.060

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

461-190-0141

Selection Criteria for JOBS Participation

- (1) AFS has the authority to select clients for participation in the JOBS Program and to remove clients from program participation.

(2) Mandatory applicants for ADC-BAS, ADCM-BAS, REF and REFM-BAS are selected to participate in job search, unless any of the following is true:

- (a) The applicant is participating in an OFSET program that:
 - (A) Is a job search program requiring at least two employer contacts per day; or
 - (B) Is an AFS/Employment Division OFSET demonstration project.
 - (b) The applicant is a parent under age 20, who does not have a high school diploma or GED.
 - (c) AFS determines that job search would interfere with the applicant's current participation and progress in a substance abuse or mental health program.
 - (d) The applicant is enrolled in and attending post secondary education or vocational training at least 12 hours per week.
- (3) Selection for, and removal from, the program is based on all the following criteria:

- (a) Local availability of:
 - (A) Services appropriate to the client's needs.
 - (B) Funding.
 - (C) Open slots in the AFS JOBS caseload.
- (b) The branch office determination of the client's motivation and chances for success, based on the assessment and past experience with that client.
- (c) The client is a filing group member.
- (d) The client is not excluded per OAR 461-130-0075.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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 23-1991(Temp), f. 10-31-91, cert. ef. 11-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 1-1993, 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 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97

461-190-0151

Employment Planning; JOBS

- (1) Clients who participate in JOBS must have an Employment Development Plan (EDP) on a form specified by AFS.
- (2) Update the EDP when changes occur in participant employment goals, barriers, JOBS participation or support service needs.
- (3) Review the EDP at least every six months and whenever a JOBS participant moves from one branch to another.
- (4) Ask clients to sign their EDP. If they refuse to sign, the EDP is still valid as long as the client is informed of its provisions.

(5) Clients and participants may request conciliation if they disagree with their EDP. If requested, conciliation must be provided.

Stat. Auth.: ORS 411.060, 411.070, 411.116, 411.120, 411.595, 411.816, 412.520 & 414.042

Stats. Implemented: ORS 411.060 & 45 CFR 250.41

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

461-190-0161

JOBS Components

The following components are offered through the JOBS Program:

(1) Basic Education: A component intended to ensure functional literacy for all JOBS participants. Basic Education activities are High School Attendance, English as a Second Language (ESL), and ABE or GED. Refer to OARs 461-190-0171 and 461-190-0181.

(2) Job Readiness: A component designed to prepare participants to compete in the local labor market. The Job Readiness activity is Life Skills.

(3) Job Search: A component that focuses on participants 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, instruction in interviewing skills, group and individual job search. Refer to OAR 461-190-0201.

(4) Job Skills Training: A component designed to provide classroom training in vocational and technical skills, or equivalent knowledge and abilities in a specific job area. The component and activity are both called Job Skills Training.

(5) JOBS Plus: A program under the Oregon Option waiver that provides ADC clients with on-the-job training, while paying their benefits as wages from the work-site assignment.

(6) On-the-Job Training (OJT): An employment component in which a JOBS participant works for an employer for a contracted period of time. The employer trains the participant and is reimbursed, usually at 50 percent of the participant's wages, for those training costs. The component and activity are both called OJT.

(7) Program Entry: The component that includes all the activities that prepare a client to actively participate in JOBS. The Program Entry activities include assessment, BASIS testing and writing the initial Employment Development Plan (EDP).

(8) Self-Initiated Training: Education or training started by a client before they are selected to participate in JOBS that is approved by an AFS staff member and included in the EDP. Includes full-time attendance at an institution of higher education or other school offering vocational or technical training. The component and activity are both called Self-Initiated Training. Refer to OAR 461-190-0191.

(9) Sheltered/Supported Work: A component that gives participants intensive staff support, skill training, intervention and counseling. As participants develop skills, they receive more and more responsibility until they can function in employment independently.

(10) UN Work Program: A component in which ADC-BAS clients work in unsubsidized employment or work in unsubsidized employment and participate in another JOBS work site training activity.

(11) **Work Experience:** A component comprised of unpaid short-term work at a job site meant to develop good work habits and basic vocational skills to enhance employability. It can be through a private for-profit business, nonprofit organization or public agency. Participation in a specific Work Experience assignment cannot exceed nine consecutive months. JOBS mandatory clients who are assigned to a private for-profit business, non-profit organization or public agency can be disqualified for nonparticipation.

(12) **Work Supplementation:** Up to six months of work-site training provided by an employer under contract. The component and activity are both called Work Supplementation.

(a) AFS subsidizes the participant's wages by diverting up to \$200 per month of the participant's cash benefits to the employer.

(b) Clients who do not have medical coverage through their employer remain eligible for ADCM-BAS or REFM-BAS while participating in Work Supplementation.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 1-1993, 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 27-1993(Temp), f. & cert. ef. 11-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; 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 19-1997, f. & cert. ef. 10-1-97

461-190-0163

Restrictions for On-the-Job Training, Work Experience, Work Supplementation; JOBS

- (1) JOBS participants must not be assigned to an OJT, Work Experience or Work Supplementation activity that does any of the following:
- (a) Displaces any currently employed worker or position, including a reduction in regularly scheduled hours, wages or benefits;
 - (b) Impairs existing contracts for services or collective bargaining agreements;
 - (c) Employs or assigns a participant to fill a position when:
 - (A) Another person is laid off from the same or an equivalent job within the same organizational unit; or
 - (B) An employer terminates an employee or reduces its work force by hiring a participant in OJT, Work Experience or Work Supplementation.
 - (d) Infringes in any way on promotional opportunities of any current employee.
- (2) In addition, Work Supplementation participants must not fill an established but currently vacant position.
- (3) The working conditions for OJT, Work Experience and Work Supplementation assignments must not violate applicable state and federal health and safety standards or require activities not considered usual and customary to the occupation for which the participant is being trained.
- (4) Participants in OJT, Work Experience and Work Supplementation who are covered by a workers' compensation system are entitled to the same level of benefits under the same conditions as other persons similarly employed.
- (5) Participants 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.

Stat. Auth.: ORS 411.060, 411.070, 411.105 & 411.620

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93

461-190-0166

Level of Participation for Oregon Option Control Group Parents With Children Ages One Through Five; ADC-BAS, REF

(1) Oregon Option control group ADC-BAS, ADCM-BAS, REF and REFM-BAS parents with children 1, 2, 3, 4 or 5 years old may be required to participate in JOBS or accept employment for up to 20 hours per week. This does not apply to either of the following:

- (a) Teen parents without a high school degree or GED may be required to participate full-time in education, even if it exceeds 20 hours a week. This includes all teen parents in two-parent ADC-BAS households with deprivation based on unemployment or underemployment.
- (b) Both parents, unless exempt, in all other two-parent ADC-BAS households with deprivation based on unemployment or underemployment may be required to participate full-time, if child care is guaranteed.

(2) When counting the 20 hours of participation:

- (a) Include actual time in classes, employer contacts and time spent in scheduled JOBS activities.
- (b) Do not include travel time (except for job search), meal times, unsupervised homework, orientation, work on Employment Development Plans, appointments with AFS or other service providers to discuss case management issues or support services, or time spent in a support service activity (e.g, alcohol or drug counseling).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

Hist.: AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-190-0171

Education Requirements for Teen Parents; JOBS

(1) Custodial parents under age 20 who are in the JOBS Program and do not have a high school diploma or GED must participate in education activities. They can be required to participate full-time (as defined by the education provider). This includes all teen parents (even pregnant teens) in two-parent households who receive ADC-BAS based on unemployment or underemployment.

(2) JOBS participants per (1), above, can be excused from education only if one of the following is true:

- (a) They are exempt for a reason other than providing care for a child under age 1.
- (b) Additionally for parents under age 18, if they have been excused by their local school district from state compulsory

school attendance and meet the following conditions:

- (A) Their employment goal 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 AFS determines the goal is appropriate and reasonable, leading to self-sufficiency; and
- (B) They are participating in skills training with an education component designed to result in a literacy level of at least grade 8.9.
- (c) Parents age 18 or 19 can be assigned employment training in place of education. These clients can be assigned to training only if it prepares them for occupations or occupational fields for which there is a labor market demand; and
- (A) The client fails to make good or satisfactory progress in completing their educational activities; or
- (B) Educational activities are inappropriate as determined by the client's education and employment goals.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

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 basic education if their employment goals requires a literacy level of 8.9, unless one of the following is true:
- (a) They are exempt;
 - (b) They demonstrate a literacy level of at least grade 8.9 through basic skills testing (BASIS);
 - (c) They have a high school diploma or GED;
 - (d) Their employment goal is an occupation or occupational field that does not require a literacy level above 8.9.
- (2) AFS may require an individual with limited English to participate in available English education when the person's ability to speak, read or write the English language limits their employment opportunities.

Stat. Auth.: ORS Ch. 411 & 414

Stats. Implemented: ORS 411.060

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90

461-190-0191

Self-Initiated Education and Training

Self-initiated education or training (SIT) may be approved for clients who do not currently qualify for an occupation in

the local labor market that would bring the financial group to a self-sufficiency income level. For the purposes of this rule, a *self-sufficiency income level* is \$960 (gross) a month.

(1) Assess whether the SIT applicant and other JOBS mandatory clients in the financial group qualify for an occupation in the local labor market. Consider approving SIT when the SIT applicant and other JOBS mandatory clients in the financial group do not currently qualify for an occupation in the local labor market that meets at least one of the following conditions:

- (a) Has a wage level that would raise the financial group income to a self-sufficiency income level;
- (b) Has a wage level that would bring the financial group income to a self-sufficiency income level within 12 consecutive months of employment;
- (c) Is considered appropriate short-term preparation for occupations that would bring the financial group income to a self-sufficiency income level.

(2) For approval, the client and their SIT must meet all of the following conditions:

- (a) The client is not a JOBS participant when they begin the SIT;
- (b) The client has been attending an institution of higher learning or school offering vocational or technical courses for at least 30 days before AFS approves the SIT;
- (c) The client is a full-time student as defined by the institution;
- (d) The client is making good or satisfactory progress, as determined by the institution;
- (e) The SIT will prepare the client for an occupation or occupational field for which there is:
 - (A) A local labor market demand; or
 - (B) A demand in a labor market to which the client is willing to relocate upon completion of the SIT.
- (f) The SIT will prepare the client for an occupation with a starting wage that is at a self-sufficiency income level or one that is expected to rise to a self-sufficiency level within 12 consecutive months after job entry;
- (g) The SIT can be completed within 18 consecutive months from the date AFS approves it;
- (h) The education or training costs (including tuition, books, fees) are self-financed.

(3) SIT must be approved by AFS to qualify for support services. Approval requires that the following are true:

- (a) The conditions in sections (1) and (2) of this rule are met;
- (b) The educational or training institution is recognized by the community as an effective provider of academic competency or job skills;
- (c) For clients not in the MDRC JOBS evaluation control group, the selection criteria in OAR 461-190-0141(3) are met.

(4) Clients with approved SIT programs may receive the following:

- (a) All JOBS clients except those in the MDRC JOBS evaluation control group may receive child care, transportation and other support services (other than educational costs) as specified in their Employment Development Plan (EDP);
- (b) Clients in the MDRC JOBS evaluation control group may receive only child care payments.

(5) Clients cannot be assigned JOBS activities that interfere with participation in an approved SIT.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.111, 411.700 & 411.710

Stats. Implemented: ORS 411.060 & 45 CFR 250.48

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 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 3-1993(Temp), f. & cert. ef. 2-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; 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

461-190-0201

Job Search; JOBS

(1) There are two categories of Job Search:

(a) Initial (Applicant) Job Search.

(b) Regular Job Search.

(2) There are no time limits on regular job search except as described in section (3) of this OAR.

(3) Clients who have participated in initial and/or regular Job Search for 12 consecutive calendar weeks must, at the end of the 12th week, be given 2 consecutive weeks during which they cannot be required to participate in Job Search activities. This period is intended to provide clients with a respite from the rigors of extended Job Search. At the end of the 2 consecutive weeks, clients may again be required to participate in Job Search. For a client to be considered to have participated in Job Search for a calendar week, they must have participated in at least 10 hours of Job Search activities during the calendar week.

(4) Requirements for initial job search are as follows:

(a) Initial job search must begin before eligibility is determined and must end within eight consecutive weeks after the date of request.

(b) Applicants in initial job search must make at least two employer contacts each day during the application period, unless AFS determines that a particular day is not appropriate for job search.

(c) AFS may require applicants in initial job search to attend instruction in job-search preparation (e.g., resume writing, completing applications, interview techniques) in addition to making employer contacts.

(d) Applicants required to participate in job search must sign the AFS-designated form and be given an applicant Employment Development Plan (EDP).

(5) Clients can be required to participate in regular job search only after they have been determined eligible and have gone through the early assessment.

(6) If a client performs four consecutive weeks of unsuccessful regular job search, reassess the client to determine whether they are job-ready or have substantial employment barriers, whether they need additional or other support services, and whether their employment goal is appropriate and job search is an appropriate activity to achieve that goal. Perform the following activities as part of the reassessment process:

(a) Discuss the results of the reassessment with the client;

(b) Modify or revise the EDP if the reassessment results and discussion with the client warrant it; and

- (c) Narrate in the case record the results of the reassessment, the discussion with the client, and outcomes resulting from the reassessment and client discussion (including changes to the EDP).
- (7) Clients participating in job search are eligible for support services per OAR 461-190-0211.
- (8) Job search hours assigned and conducted as part of another activity (e.g., Life Skills, Job Skills Training) are counted as participation hours in that other activity.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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 23-1991(Temp), f. 10-31-91, cert. ef. 11-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; 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 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-190-0211

JOBS Support Payments and Services; Overview

- (1) Support services for required participation, job activities or employment must be available at no cost to JOBS participants.
- (2) JOBS payments must be issued as follows:
 - (a) They must be prior-authorized by AFS or a contractor, if AFS delegates that authority.
 - (b) Child care payments must be issued directly to the child care provider.
 - (c) Other payments may be issued to the client or provider, as determined by the local service district.
- (3) All JOBS payments must be within the service district's allocation.
- (4) JOBS funds may be used to pay for items including, but not limited to, child care, transportation, tools, fees, clothing, a telephone or message system, eyeglasses, dental work, counseling, etc. Items covered by the participant's medical card will be paid by JOBS funds only in exceptional situations, when essential for the participant to attain or keep employment. JOBS funds may not be used to pay traffic fines or driver's license reinstatement fees.
- (5) JOBS payments and services are available to JOBS participants and for clients transitioning to employment to:
 - (a) Allow participation in JOBS activities and components.
 - (b) Remove or reduce barriers to employment.
 - (c) Enable completion of approved training.
 - (d) Support job entry.
 - (e) Help maintain employment for:
 - (A) Former participants, for up to 90 days after ADC-BAS or REF benefits close due to employment; and
 - (B) ADC-BAS and REF clients not participating in JOBS.
 - (f) Help participants relocate for employment if they are able and willing to relocate and the labor market supports it.

- (g) Enable disqualified clients, who are not cooperating, to attend a verified job interview or accept a verified job offer.
- (h) Support voluntary job search, job acceptance costs and to enable an ADC-BAS, ADCM-BAS, REF or REFM-BAS client to accept a verified job offer. The client does not have to have been a JOBS participant.
- (6) JOBS support service payments are also available to support:
 - (a) Employment, education and training activities for minor parents who lose ADC-BAS eligibility per OAR 461-135-0080 because they returned to their parental home.
 - (b) Mandatory cooperation with substance abuse or mental health diagnosis, counseling and treatment programs.
 - (c) Self-sufficiency activities for:
 - (A) Work-eligible aliens who are not eligible for ADC; and
 - (B) Clients disqualified for noncooperation with SED.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-190-0221

Conditions for JOBS Support Payments and Services

- (1) Determine the amount of JOBS support payments on a case-by-case basis.
- (2) Inform participants of available support payments and services, and the need to explore other resources first.
- (3) The branch must determine that a JOBS payment is reasonable. To determine whether a JOBS payment is reasonable, consider:
 - (a) The availability of lower-cost alternatives; and
 - (b) The necessity and cost-effectiveness of the service.
- (4) When a local service provider is involved, the branch and the provider are responsible for negotiating agreements on responsibility for the payments. AFS has the authority to determine the type and amount of support payments, and develop a support service plan for each participant.
- (5) Clients in the MDRC JOBS evaluation control group are not eligible for support services other than child care for clients with approved self-initiated education and training.
- (6) JOBS payments are made under the following conditions:
 - (a) If appropriate, reasonable and available, other resources are used before JOBS payments are made.
 - (b) Use the following guidelines to decide how to use student financial aid to cover support service costs:
 - (A) AFS will not approve payments for support services specifically covered by student grants, as specified in the award

letter.

(B) The use of student loans is not required to cover support service costs.

(C) When financial aid is a combination of loans and grants, use the loans to cover educational expenses (tuition, fees, books and supplies). If the educational expenses exceed the loans, use the student grants to cover the remaining educational expenses. The remaining portion of the student grants is considered available to cover support service costs if specifically identified as such in award letter.

(c) Under no circumstances is AFS or the AFS contractor responsible for payment to a provider when JOBS funds are issued to the participant and the participant does not pay the provider.

(d) Support payments other than dependent care may be authorized for up to two weeks between scheduled JOBS activities when essential to ensure client participation.

(7) For dependent care:

(a) Payments are limited to:

(A) The lesser of the following:

(i) The actual rate charged by the child care provider; or

(ii) The AFS Child Care Rate and monthly maximum for the type of dependent care provided. For adult dependent care, use the special need rate.

(B) The minimum reasonable hours of care needed, including meal and commute time, to support participation or to help the client obtain and keep employment. The AFS rate for children in care under 158 hours is limited per OAR 461-155-0150 except as described in subsection (7)(b) of this OAR.

(C) Approved dependent care costs per OAR 461-160-0040.

(b) In the following situations, child care may be paid up to the AFS monthly maximum when children are in care under 158 hours per month and:

(A) Appropriate care is not accessible to the participant at the hourly rate; or

(B) The participant is a teen parent using on-site care while attending education activities.

(c) Dependent care support payments must be provided when needed for the participant to cooperate with JOBS program activities.

(d) In the following situations, child care payments may be provided when clients are not participating in activities, if necessary for them to keep their provider. Authorize only the minimum amount necessary to maintain the child care slot:

(A) For up to 30 days between scheduled JOBS activities; and

(B) For up to 5 days per month when the client does not use child care, but the provider charges for the time.

(e) Issue a JOBS payment to cover dependent care costs as follows:

(A) When there is a gap between the time that an ADC-BAS or REF client begins work and the period covered by ERDC benefits, issue a JOBS payment for the last month of ADC-BAS or REF eligibility. The client does not have to have been a JOBS participant.

- (B) When an ADC-BAS or REF client needs dependent care and the cost cannot be paid through the provider-direct payment system (e.g., adult care).
- (8) JOBS support service payments can be used to make a shelter payment only in the following situations:
 - (a) To prevent an eviction or utility shut-off that would result in job loss. Make these payments only when all the following are true:
 - (A) The client is employed and cannot make a shelter payment due to closure of ADC-BAS or REF benefits, and the lack of other assets.
 - (B) The client cannot maintain their employment without paying the shelter cost.
 - (C) The client is not eligible for ADC-EA.
 - (D) The client will be able to pay subsequent shelter costs.
 - (b) When the shelter need is the result of domestic violence and the following are true:
 - (A) The client is not eligible for ADC-EA or assistance through other community resources; and
 - (B) The client will be able to pay subsequent shelter costs.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; 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 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 15-1994, f. & cert. ef. 8-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97

461-190-0231

Conciliation; JOBS

Conciliation is a process intended to determine good cause for failure to cooperate with JOBS and to help participants and potential participants resolve disputes and misunderstandings. This includes disputes about Employment Development Plans (EDPs), irregular attendance at assigned JOBS activities, missed appointments, failure to participate in a JOBS component and refusal to accept or maintain employment. Use conciliation as follows:

- (1) Conciliation can be requested by the client, AFS or the AFS contractor.
- (2) Conciliation is conducted by a branch representative (e.g., case manager, operations manager) or by a team composed of a branch representative and other persons (e.g., AFS contractor representative, neutral third party, etc.).
- (3) AFS cannot disqualify clients based on their failure to participate in the conciliation process. Conciliation is an opportunity offered to clients and not a required JOBS activity.
- (4) Conciliation includes the following:
 - (a) Informing the client of their rights and responsibilities under the JOBS Program.
 - (b) Informing the client of the potential for disqualification.

- (c) Scheduling a face-to-face meeting or conducting a conciliation phone call between the client and the conciliator or conciliation team.
- (d) Conciliation includes establishing good cause and may also involve modifying an EDP or taking other remedial actions.
- (5) Conciliation may end under any of the following conditions:
 - (a) A decision is made as to whether the client had good cause for not cooperating with JOBS.
 - (b) AFS and the client agree on modifications to the disputed EDP.
 - (c) The client misses the conciliation appointment without good cause.
 - (d) No agreement is reached during the conciliation call or at the conciliation meeting.
 - (e) The client expresses or otherwise clearly indicates the intent not to cooperate in the conciliation process.
- (6) Conciliation must end before a disqualification notice is sent. Unresolved issues can be addressed through the hearings process only after a disqualification notice has been sent.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-190-0241

Transition Services; JOBS

- (1) Clients who are no longer eligible for ADC-BAS, Assessment Program or REF benefits may receive transitional benefits and services up to 90 days when one of the following is true:
 - (a) The person becomes employed and loses eligibility due to income; or
 - (b) A client loses ADC-BAS or REF eligibility for reasons other than employment while they are participating in a specific JOBS activity. The client may receive transitional benefits and services only to complete that JOBS activity.
- (2) Determine eligibility for JOBS benefits when the transition period begins:
 - (a) For OJT, the transition period begins:
 - (A) When ADC-BAS or REF benefits end because of earned income, if there are three or fewer months left in the OJT contract; or
 - (B) Three calendar months before the end of the OJT contract, if ADC-BAS or REF benefits end because of earned income when more than three months remain in the contract.
 - (b) For Work Supplementation participants, the transition period begins when the wage subsidy (grant diversion) to the employer ends.
 - (c) For all other clients, the transition period begins when ADC-BAS, Assessment Program or REF benefits end.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-190-0300

Intent of the OFSET Program

The intent of the OFSET program is to assist FS clients who do not receive ADC-BAS or REF benefits to achieve self-sufficiency through employment, within available resources.

Stat. Auth.: ORS Ch. 183, 411.060, 411.070, 411.105, 411.620, Ch. 414, 416 & 418

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

461-190-0310

OFSET Participant Requirements

- (1) FS clients who are mandatory to participate in OFSET must complete the following OFSET Program requirements:
 - (a) Work search assessment.
 - (b) Work search agreement.
 - (c) Job search and employment-related activities. These activities include:
 - (A) Independent job search.
 - (B) Job search training and support.
 - (C) Other employment-related activities.
 - (D) Continuous job search.
 - (d) Report to the OFSET worker at least once a month.
- (2) If the expenses necessary to participate in an OFSET activity exceed the allowable reimbursement, the client is not required to participate in that activity. However, the client must be placed in another available OFSET activity.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-190-0320

OFFSET Work Search Assessment

The work search assessment is:

- (1) A review of recent employment history; and
- (2) Used to develop and maintain a current work search plan.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-190-0330

OFFSET Work Search Agreement

AFS helps clients identify the employment-related activities they must complete. These are written on the work search agreement. The work search agreement is a contract between the client and AFS. It identifies the specific requirements the OFFSET participant must complete.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-190-0340

OFFSET Independent Job Search

- (1) Independent job search requires participation for up to eight consecutive weeks and requires 12 verifiable employer contacts per month. Employers must be contacted to locate any available employment.
- (2) Employer contact is client communication with an employer or employer representative through a visit, phone call or mail to request consideration for employment.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-190-0350

Job Search Training and Employment-Related Activities; OFFSET

- (1) The mandatory client may be required to complete job search training, which includes:

- (a) Resume-writing class.
 - (b) Job skills class.
 - (c) Classes for the illiterate.
- (2) There are other work-related activities the client may agree to, which may take longer than eight weeks to complete. These activities include:
- (a) JTPA.
 - (b) English as a Second Language.
 - (c) Women in Transition.
 - (d) Project Independence.
 - (e) Nurses Aid Certification.
 - (f) FS activities for ABAWDs per OAR 461-135-0520, subsections (5)(c)(e).
 - (g) Other training programs, if the client is pursuing a vocational occupation that guarantees a job at completion.
- (3) Clients must complete the type of training agreed upon in the Work Search Agreement.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97

461-190-0353

Continuous Job Search; OFFSET

- (1) Continuous job search requires up to 20 hours of participation per week (80 hours per month) in any combination of independent job search and job search training activities.
- (2) Assigned employer contacts must be verifiable.
- (3) The Division specifies whether client contact with an employer to request consideration for employment must be in person, by telephone or by mail.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97

461-190-0360

OFFSET Payments

Reimburse OFFSET participants for costs directly related to program participation as follows:

- (1) Up to \$25 a month for transportation and other costs.
- (2) For all clients except ADC-BAS and REF clients who volunteer to participate in OFSET, dependent care costs at the ERDC child care rate and limits of OAR 461-155-0150. The reimbursement is paid by the direct provider payment system.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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

461-190-0400

Specific Requirements; JOBS Plus

- (1) To be eligible for ADC-PLS, FS-PLS or NCP-PLS, a client must meet all the following conditions:
 - (a) Not be excluded from JOBS participation per OAR 461-130-0075.
 - (b) Be one of the following:
 - (A) Parent or caretaker relative receiving ADC or Assessment Program benefits.
 - (B) Unemployed non-caretaker parent of child(ren) receiving ADC-BAS.
 - (C) FS recipient.
- (2) When a member of an ADC-BAS or FS filing group signs an agreement with a JOBS Plus employer, the need group's ADC-BAS cash benefits calculated per OAR 461-160-0100 and their FS benefits calculated per OAR 461-160-0400 are suspended the last day of the month in which they receive their first JOBS Plus wage payment. The benefits remain suspended until the first day of the month following the month in which they last perform work under a JOBS Plus agreement.
- (3) ADC clients cannot receive ADC cash benefits and a JOBS Plus supplement in the same month.
- (4) OARs 461-190-0405, 461-190-0410, 461-190-0415 and 461-190-0420 apply only to JOBS Plus clients whose benefits are suspended per section (2) of this OAR.
- (5) When an ADC-BAS client is working under a JOBS Plus agreement, changes in deprivation do not affect eligibility. All other eligibility factors apply. If a parent returns to the home, add them to the benefit group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS Ch. 657

Hist.: 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 17-1996, f. 4-29-96, cert. ef. 5-1-96; 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

461-190-0405

Determining Income For Clients Working Under a JOBS Plus Agreement

Determine the amount of income to be used in JOBS Plus calculations as follows:

- (1) Use prospective budgeting.
- (2) Average earned income per OAR 461-150-0080.
- (3) Use FS policy to determine if income or resources are available.
- (4) To determine how to count a specific type of asset, use FS policy unless JOBS Plus is addressed specifically.
- (5) To calculate the adjusted income used in determining the benefit equivalents, use ADC-BAS or FS deductions, as appropriate.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS 418.040

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-190-0410

Determining/Calculating ADC-Related JOBS Plus Eligibility and Use of Income

To ensure that ADC-BAS clients do not incur a net loss of income as a result of participating in a JOBS Plus assignment, AFS pays the client a wage supplement. ADC-PLS eligibility and the supplemental payment are calculated as follows.

- (1) Compare the financial group's countable income to the FS countable income limit for the ADC-BAS need group size. If the countable income exceeds the limit, the benefit group is not eligible for JOBS Plus.
- (2) To determine the benefit equivalent, calculate the total that the client would have received in benefits as follows:
 - (a) For the full benefit equivalent:
 - (A) Determine the need group size for ADC-BAS and FS.
 - (B) Calculate ADC-BAS benefits per OAR 461-160-0100 and FS benefits per OAR 461-160-0400, based on prospective income. For FS, include support only if support income can be anticipated to have been received by the client directly, instead of being assigned to, and collected by, the Division.
 - (C) Add the ADC-BAS and FS benefit amounts together.
 - (b) For the minimum benefit equivalent:
 - (A) Take the ADC-BAS payment standard for the need group size used in subsection (2)(a)(A). Subtract the payment standard for the need group size for ADC-BAS as if the JOBS Plus client were ineligible. The result is the one-person difference in the payment standard.
 - (B) Subtract the one-person difference in the payment standard from the full-benefit equivalent. The balance is the minimum benefit equivalent.
- (3) Determine the available hours to be used in calculating JOBS Plus wages as follows:
 - (a) On a monthly basis, per OAR 461-190-0460, JOBS Plus employers report the following information about the JOBS

Plus participant:

- (A) Scheduled hours of work.
- (B) Number of hours the participant actually worked.
- (C) Other paid hours (paid sick leave, job search hours, etc.).
- (D) The number of hours of unexcused absences.

(b) The available hours are:

- (A) Paid hours (regular and overtime work hours, plus other paid hours per paragraph (3)(a)(C) of this OAR); and
- (B) Any unexcused hours.

(c) The unexcused hours are considered as potential available income and are included in calculating the JOBS Plus wages. The participant has the right to appeal to AFS the employer's decision not to excuse the absences. If the participant can establish that they had good cause for missing work, per OAR 461-130-0280, AFS will recalculate the supplement without any hours for which good cause was established.

(4) Calculate the client's JOBS Plus income retrospectively as follows:

(a) Determine the client's net JOBS Plus wage.

(A) For the full benefit equivalency test, this is the client's salary multiplied by available hours, minus \$90 to cover deductions for federal, state, FICA and worker's compensation taxes.

(B) For the minimum benefit equivalency test, this is the client's salary multiplied by paid hours, minus \$90 to cover deductions for federal, state, FICA and worker's compensation taxes.

(b) Add the full amount of the retrospective child support.

(c) Add the monthly EIC refund of \$102.

(d) Subtract any amount withheld as the result of a garnishment.

(5) Calculate the wage supplement as follows:

- (a) Subtract the JOBS Plus income, per subsection (4)(a)(A) of this OAR, from the full benefit equivalent.
- (b) Subtract the JOBS Plus income, per subsection (4)(a)(B) of this OAR, from the minimum equivalency.
- (c) Compare the two supplemental amounts. Pay the greater of the two to the client.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 9-1997, f. & cert. ef. 7-1-97

461-190-0415

Determining/Calculating FS-Related JOBS Plus Eligibility

Compare the financial group's countable income to the FS countable income limit for the FS need group size. If the countable income exceeds the limit, the benefit group is not eligible for JOBS Plus.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-190-0420

Calculating Emergency FS Payments for JOBS Plus Clients

To ensure that FS clients do not incur a net loss of income because of their JOBS Plus assignment, AFS pays an emergency FS payment if the client's income falls below the Thrifty Food Stamp Plan amount for their need group size. When the client contacts AFS and requests an emergency FS payment, calculate the emergency payment as follows:

- (1) Determine the gross amount of JOBS Plus wages the client has already received and any that the client can reasonably expect to receive.
- (2) Deduct \$90 from the gross wages to cover work-related deductions. Then, subtract any amount withheld under a garnishment.
- (3) Add in any EIC payment the client received or anticipates receiving during the month.
- (4) Add in any other prospective income. This is the JOBS Plus income.
- (5) Subtract the JOBS Plus income from the Thrifty Food Plan amount for their need group. Pay the client the difference.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-190-0425

Limitation on Tax Liability; JOBS Plus

- (1) To ensure that the diversion of FS benefits to JOBS Plus wages does not cause the client a loss of income as a result of increased tax liability, AFS will make a yearly payment to make up any difference between the client's actual tax liability and the liability that the client would have incurred if FS benefits had not been included in the JOBS Plus wages.
- (2) The client must do all the following:
 - (a) Request the payment by June 30 of the year following the tax year.
 - (b) Submit their federal tax forms (including the EIC schedule) and state tax forms. The client must submit adjusted tax forms with the income reduced by the amount of FS benefits used in calculating the full benefit equivalency.
 - (c) Recalculate their tax liability.

(3) AFS will subtract the adjusted liability from the actual liability. If it is a positive amount, AFS will pay the client the difference.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-190-0435

JOBS Plus Employment Development Plans

Persons selected for JOBS Plus as ADC-PLS or FS-PLS participants must be informed of their Rights and Responsibilities as program participants and must have an Employment Development Plan (EDP) on a form specified by AFS.

- (1) The EDP includes the following:
 - (a) The terms and conditions of employment at the JOBS Plus work site;
 - (b) The support service payments required to support JOBS Plus participation;
 - (c) The participant's requirement for job search after four or six months on the job site, as appropriate.
- (2) The EDP must be updated when changes occur in JOBS Plus participation or support service needs.
- (3) Persons may request conciliation if they disagree with their EDP. If requested, conciliation must be provided.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96

461-190-0440

JOBS Plus Participation and Work-Site Assignment

- (1) JOBS Plus work-site agreements must meet the following conditions:
 - (a) The work-site agreement does not require the JOBS Plus participant to work more than 40 hours per week.
 - (b) The work-site agreement does not displace regular employees (including strikers) or fill an unfilled, established position.
 - (c) The wages paid the JOBS Plus participant must not be substantially less than the wages paid for similar jobs in the local economy, with appropriate adjustments for experience and training. Under no circumstance can the wages be less than the hourly rate of the Oregon minimum wage.
 - (d) JOBS Plus participants must be paid the sick leave, holiday and vacation absences that conform to the employer's rules for temporary employees.

(e) The employer must provide Worker's Compensation coverage.

(f) Work-site agreements entered into under the 1993 JOBS Plus legislation must meet the following timeframes:

(A) After participating 6 months at a work-site assignment, AFS may require clients to perform 8 hours a week of job search. The employer must treat the job search as working hours and pay participants' wages for the job search hours.

(B) A specific work-site agreement cannot exceed nine consecutive months.

(g) Work-site agreements entered into under the 1995 JOBS Plus legislation must meet the following timeframes:

(A) After participating 4 months at a work-site agreement, AFS may require clients to perform eight hours a week of job search. The employer must treat the job search as working hours and pay participants' wages for the job search hours.

(B) A specific work-site agreement cannot exceed six consecutive months.

(2) ADC-PLS and FS-PLS participants receive the following compensation, benefits and services:

(a) Support service payments are issued to remove barriers to participation and to enable participants to accept or maintain employment. Non-child-care support service payments are issued per OARs 461-190-0211 and 461-190-0221.

(b) Child care payments are issued as follows:

(A) Child care needed for work, commuting and meal hours related to the JOBS Plus agreement is paid using the OARs for ADC-BAS child care for working parents.

(B) Child care needed for other JOBS Plus activities (e.g., job interviews and assessment) is paid using the OARs for JOBS child care support services.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

Hist.: 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 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-190-0445

Ending JOBS Plus Work-Site Assignments

(1) JOBS Plus work-site agreements may be ended by the participant as follows:

(a) The participant may contact AFS after two weeks in the work-site assignment and request to end their current agreement. AFS will reassess the needs of the participant and assign them to another JOBS Plus work site, if available.

(b) The participant may ask for two work-site assignments to be terminated without penalty. For the third, and any subsequent requests, the participant must establish good cause per OAR 461-130-0240. If the participant cannot establish good cause, they are subject to disqualification for failure to cooperate with JOBS Plus.

(2) The employer may end a JOBS Plus agreement by contacting AFS and requesting that the participant's agreement end. If the employer requests another participant for a work-site assignment, AFS will, if possible, assign another participant to the work site.

(3) AFS will end a JOBS Plus work-site agreement:

- (a) Whenever an employer or a specific assignment is found to be in violation of the agreement; or
- (b) At the end of the month prior to the month a member of the filing group begins serving a FS program disqualification.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-190-0450

Selection Criteria for Employer Participation in JOBS Plus

- (1) Employers cannot be required to accept JOBS Plus participants.
- (2) Private and public employers are assigned JOBS Plus participants in the following order:
 - (a) Private employers have the highest priority for JOBS Plus participants;
 - (b) Public employers may be assigned JOBS Plus participants only when there is no appropriate vacant position with a private employer.
- (3) The number of JOBS Plus participants an employer may have at any one time cannot exceed 10 percent of the employer's total number of employees, unless:
 - (a) An employer would exceed the 10 percent limitation by having only one JOBS Plus participant. The employer is allowed to have the one JOBS Plus participant; or
 - (b) The AFS Administrator waives the 10 percent limitation due to special circumstances.
- (4) AFS may not assign JOBS Plus participants to employers who have:
 - (a) Exhibited a pattern of unreasonably ending JOBS Plus participation prior to completion of training; or
 - (b) Demonstrated an unwillingness to provide adequate training or comply with JOBS Plus requirements per OAR 461-190-0455.

Stat. Auth.: ORS 411.060

Stats. Implemented: Note prec. ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96

461-190-0455

Requirements for JOBS Plus Employers

JOBS Plus employers are required to do all the following:

- (1) Maintain health, safety and working conditions for the JOBS Plus participant at or above levels considered acceptable in the industry and not below those for comparable jobs with the employer.

- (2) Provide on-the job training to the degree necessary for JOBS Plus participants to perform their duties.
- (3) Recruit volunteer mentors from among their regular employees to assist JOBS Plus participants become oriented to work and the work place.
- (4) Agree to abide by all JOBS Plus program requirements by signing an agreement for each JOBS Plus assignment, which:
 - (a) Indicates the specific job offered to a participant; and
 - (b) Includes provisions specifying the employer's responsibility to repay reimbursements if the employer violates JOBS Plus program rules.
- (5) Provide JOBS Plus participants with group health insurance benefits if, and to the extent that, state and federal law requires the employer to provide such benefits.
- (6) Contribute \$1 to the participant's Individual Education Account (IEA) for each hour paid, after 30 days of work-site participation. People are eligible to use their IEA for educational benefits when they have held a full-time, unsubsidized job for at least 30 days. The IEA is administered by the State Scholarship Commission.

Stat. Auth.: ORS 411.060, 411.070, 411.095, 411.105, 411.111 & 411.816

Stats. Implemented: Note prec. ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94

461-190-0460

Reimbursement for JOBS Plus Employers

- (1) JOBS Plus employers receive reimbursement from the JOBS Plus Program Special Fund for the following:
 - (a) Up to 40 hours per week of wages paid to JOBS Plus participants, at a rate not exceeding the Oregon minimum hourly wage;
 - (b) Employers' share of the following payments reimbursed at the rate specified in the Work-Site Agreement:
 - (A) Social Security;
 - (B) Federal and state Unemployment Insurance;
 - (C) Worker's Compensation.
- (2) To receive reimbursement, the employer must bill AFS on the AFS-specified form. The billing period will be from the 16th of the month through the 15th. The bill due date is the 20th.
- (3) AFS will calculate the employer reimbursement as follows:
 - (a) The wage amount will be the Oregon minimum hourly wage times the number of paid hours up to 40 per week. Paid hours may include the participant's:
 - (A) Regular work hours;
 - (B) Paid sick, holiday and vacation time;

(C) Up to 8 hours per week of job search hours per OAR 461-190-0440.

(b) The amount reimbursed for items in subsection (1)(b) of this OAR will be the number of paid hours per subsection (3)(a) plus overtime work hours times the per-hour rate specified in the Work-Site Agreement. The rate in the Work-Site Agreement cannot exceed the rate for employers who are paying timely.

(4) After a participant has been in a subsidized work-site assignment for 30 days from the agreement start date, AFS will withhold \$1 per hour from the employer reimbursement. That sum is paid into the participant's Individual Education Account (IEA). For work-site agreements entered into under the 1993 JOBS Plus legislation, if the employer hires a JOBS Plus participant in an unsubsidized job for at least 30 days, AFS will reimburse the employer one-half of their contribution to that participant's IEA.

(5) Employers who violate JOBS Plus program OARs may be subject to the following financial penalties:

(a) Nonreimbursement for payments made under section (1) of this OAR;

(b) Repayment of any amount paid under section (1) of this OAR.

Stat. Auth.: ORS 411.060

Stats. Implemented: Note prec. ORS Ch. 657

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96

461-190-0465

JOBS Plus Conciliation Process

Conciliation is a process intended to determine good cause for failure to cooperate with ADC-PLS and FS-PLS, and to allow participants and potential participants to resolve disputes and misunderstandings. Use conciliation as follows:

(1) Conciliation must be offered before a disqualification notice is sent. Once conciliation ends and a decision notice is sent, unresolved issues can be addressed only through the hearings process.

(2) Conciliation can be requested by the participant, AFS or the JOBS Plus employer.

(3) Conciliation is conducted by an AFS representative (e.g., case manager, operations manager) or by a team composed of an AFS

representative and other persons (e.g., a neutral third party).

(4) Conciliation can be conducted in a face-to-face meeting or by a phone call between the participant and the conciliator or conciliation team.

(5) Persons cannot be disqualified based on their failure to participate in the conciliation process. Conciliation is not a required JOBS Plus activity.

(6) Conciliation includes the following:

(a) Informing the participant of their rights and responsibilities under the JOBS Plus program.

(b) Informing the participant of the potential for disqualification and what a disqualification entails.

(c) Determining whether good cause exists for noncooperation.

(7) Conciliation may end under any of the following conditions:

- (a) A decision is made as to whether the participant had good cause for not cooperating with the JOBS Plus program.
- (b) The participant and conciliator or conciliation team agree to a resolution of the issue that instigated the conciliation.
- (c) The participant misses the conciliation without good cause.
- (d) The participant expresses or otherwise clearly indicates the intent not to cooperate with the conciliation process.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 418.040

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96

461-190-0600

Workfare; FS

Workfare is an activity whereby ABAWDs (per OAR 461-135-0520) meet the work requirement for FS. Workfare is voluntary. There is no disqualification for failure to do workfare; however, ABAWDs who fail to meet the work requirement by doing a work activity as specified in OAR 461-135-0520 are subject to the time limit for FS.

- (1) For each client that the Division determines has a potential for locating unsubsidized employment, workfare begins with 30 days of intensive job search or job search training. If the Division determines this labor market test is inappropriate, workfare begins with a job site placement.
- (2) After the first 30 days, clients who are not in an activity per OAR 461-135-0520(5)(a-d), can continue in a workfare job site placement.
- (3) Clients in a workfare job site placement must complete an average of 5 hours per week (20 hours per month) in the activity in order to comply, unless the case manager determines they have good cause per OAR 461-130-0240.
- (4) Clients in a workfare job site placement must be tracked so that workfare hours worked each month are recorded, based on proof from the work provider of completion.
- (5) For each month the client fails to comply with workfare, they use up a calendar month of their FS time limit.
- (6) Clients who reach their FS time limit by receiving benefits for 3 months without meeting the work requirement of OAR 461-135-0520 can comply with workfare for a 30-day period to regain FS eligibility.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 193

REFUGEE PROGRAMS

461-193-0000

Refugee Project Participant Rights

Project participants have the following rights, which the project worker must explain to them both orally and in writing:

- (1) The right to information about services administered under the project.
- (2) The right to refuse to release information given to the project or to other agencies or people, unless the release is for purposes directly connected with administering the project, or as determined by law.
- (3) The right to a staffing within 5 working days of the date of the Decision Notice informing participants that their benefits and/or services are:
 - (a) Reduced;
 - (b) Ended; or
 - (c) Denied.
- (4) The right to receive a decision on eligibility promptly and by the 10th calendar day from the intake date.
- (5) The right to apply for and receive benefits and services without discrimination.

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

461-193-0001

Refugee Project Rules

- (1) The OARs in OAR Chapter 461, Division 193, apply to people who meet the refugee/asylee alien status requirement of OAR 461-120-0120.
- (2) For these clients, the OARs in this division take precedence over other AFS OARs in Chapter 461, except as follows:
 - (a) The Refugee Case Services Program (RCSP) is a prior resource for refugees/asylees as stated in OAR 461-135-0900(1).
 - (b) Confidentiality and release of client/participant information is governed by OARs 461-105-0050 through 461-105-0140.
 - (c) The requirement to serve clients without discrimination, and definitions of discriminatory acts, are covered in OARs 461-105-0180 and 461-105-0190.
 - (d) Lost benefit checks are restored per OAR 461-165-0220.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97

461-193-0005

Refugee Projects Overview

The Oregon refugee project encourages, assists and requires applicants and recipients to fulfill their responsibilities to support themselves and their families by preparing for, accepting and retaining employment. Refugee projects are funded by the Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement (ORR) by funding awarded to States for certain services. Funding falls generally into four categories: Cash, Medical and Administration; Social Services; Targeted Assistance; and Discretionary.

- (1) The contracted service provider who is awarded the funding for a project has the authority to select refugees for participation in the project and to remove them from project participation. Selection for, and removal from, the project is based on project eligibility, the service provider's determination of the participant's motivation and chances for success, and cooperation of the participant in project activities. Project services are designed to enable refugees to obtain jobs with less than one year's participation. All refugees participating in a refugee funded project must meet the following criteria:
 - (a) The refugee must provide proof that they were lawfully admitted to the United States under valid provisions of the Immigration and Nationality Act.
 - (b) The refugee may remain in an employment project longer than one year if they have entered a job, and need help to retain employment or move to a better job.
 - (c) The refugee must not be a full-time student or intending to enroll as a full-time student within six months of their project intake date.
 - (d) The refugee must meet all the individual eligibility criteria for the project they apply for and any assistance which is

provided.

(2) TANF/ADC (Temporary Assistance for Needy Families/Aid to Dependent Children) funding is used for those refugees who otherwise qualify under the State Plan for these services.

(3) DHHS/ACF/ORR (Department of Health and Human Services/Administration for Children and Families/Office of Refugee Resettlement) Cash Medical and Administration (CMA) funding is in part used to provide limited cash assistance to refugees who are ineligible for cash assistance under any other categorical social service program and meet refugee cash assistance standards. Refugees may be eligible for refugee cash assistance during a period to be determined by the ORR. CMA funding is also used to provide limited medical assistance to refugee who are ineligible for Medicaid services under the State's Plan and is governed by the service standard of the Oregon Health Plan. CMA funding is also used to provide assistance, services and administration of the refugee program.

(4) Social Services funding is primarily for facilitating refugee employment and achievement of self-sufficiency; for employability services that directly enhance refugee employment potential, have specific employment objectives and are designed to enable refugees to obtain jobs with less than one year's participation.

(a) Participants must be age 16 or older and must not be full-time students in elementary, secondary, or alternative school.

(b) Vocational training shall not last more than one year and must be intended to lead to employment within one year.

(c) Participation priorities are in the following order, except in the most extreme circumstances:

(A) All newly arrived refugees during their first year in the United States, who apply for services.

(B) Refugees who are receiving cash assistance.

(C) Unemployed refugees who are not receiving cash assistance.

(D) Employed refugees in need of services to retain employment or to attain economic independence.

(5) Targeted Assistance funding uses a formula allocation to States, to counties and to similar areas in the States where, because of factors such as unusually large refugee populations, high refugee concentrations and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

(a) Participants must be age 16 or older and must not be full-time students in elementary, secondary, or alternative school.

(b) Vocational training shall not last more than one year and must be intended to lead to employment within one year.

(c) Services should focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial year of resettlement.

(d) Participation priorities are in the following order:

(A) Cash assistance recipients, particularly long-term recipients.

(B) Unemployed refugees who are not receiving cash assistance.

(C) Employed refugees in need of services to retain employment or to attain economic independence.

(6) Discretionary funding augments targeted assistance programs for funding to localities most impacted by the influx of refugees. Discretionary projects are of a limited duration and offer a variety of different services, with specific criteria outlined in the grant application announcement.

(7) Refugee Service Projects:

(a) Refugee Case Service: This project provides case coordination and cash assistance to all qualified refugees in the project area.

(b) New Arrival Employment Services (NAES): This project assists newly arrived refugees to achieve self-sufficiency through employment, within available resources. Available training may include power sewing and pre-industrial training.

(c) Job and English Training (JET): This project provides classroom instruction for newly arrived refugees who are in the NAES project on work search skills, job application and interview skills, and appropriate on the job behavior in order to help them understand the dynamics of the American work place, enable them to function more effectively on the job, and improve their potential for job retention.

(d) JET Plus: This project provides services to further support early employment and self-sufficiency through the participant's active involvement in various workforce readiness activities designed to help participants locate and maintain successful employment.

(e) Coordinated Assistance to Support Employment (CASE): This project assists newly arrived refugees who are in the NAES project to early employment with support services of training, financial support services and employment plan support.

(f) Established Employment Services (EES): This project assists refugees to achieve self-sufficiency through employment, within available resources.

(g) Clark County Washington Employment Services: This project assists refugees to achieve self-sufficiency living in Clark County, Washington.

(h) Refugee Medical Screening: This project provides for a medical screening for all newly arrived refugees in Oregon within their first 90 days in the United States.

(i) Unaccompanied Minor Child Welfare Services: This project assists refugees entering as unaccompanied minors. It is operated by the child welfare division of the State of Oregon. The project focuses on providing a family environment in which the unaccompanied refugee child can develop the social and behavioral skills necessary to achieve self-sufficiency. Services to unaccompanied minors are in the same range of child welfare benefits and services available in the state.

(j) Discretionary projects as awarded each federal fiscal year.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 12-1995, f. & cert. ef. 6-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97

461-193-0007

Refugee Project Services Delivery Requirements

A State must provide any individual wishing to do so an opportunity to apply for services and determine the eligibility of each applicant.

- (1) The provision of services for refugees, with the exception of referral and interpreter services, is limited to refugees who have been in the United States 60 months (5 years) or less. All services for a refugee must be completed at the end of their 60th month, unless specified otherwise in grant language.
- (2) Services should be provided in a manner that is linguistically and culturally compatible with a refugee's background.
- (3) Refugee-specific services must be provided during the initial years of resettlement and which are specifically designed to meet refugee needs and are in keeping with the OARs and objectives of the refugee program. Exceptions to refugee-specific services include vocational or job skills training, on-the-job training (OJT), or English language training.
- (4) English language instruction must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.
- (5) Refugee women should have the same opportunities as men to participate in training and instruction. Services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women.
- (6) A family self-sufficiency plan must be developed for any refugee who participates in refugee program funded employment-related services.
- (7) In planning services, projects must take into account the reception and placement (R&P) services provided by resettlement agencies in order to ensure the provision of seamless, coordinated services to refugees that are not duplicative.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 19-1997, f. & cert. ef. 10-1-97

461-193-0010

Refugee Project Participant Responsibilities

To be eligible for benefits and services, participants 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 Project office to obtain verification.
- (2) Comply with the eligibility requirements of the project.
- (3) Report within 2 working days any changes that could affect their eligibility for services and/or benefits, including, but not limited to the following:
 - (a) Receipt of income, resources, or property.
 - (b) Change in job status or school attendance.
 - (c) Involvement in a motor vehicle or personal accident.
 - (d) People moving in and out of the household.
 - (e) Changes in address or telephone number.

(f) Decision to withdraw from the project.

(4) Repay all overpayments in cash assistance benefits.

(5) Attend and complete all required Project activities and appointments, unless there is verifiable good cause.

(6) Contact the project worker, if they are unable to attend, or will be late for scheduled activities. Report within 1 working day from when the activity was missed.

(7) Turn in valid job applications and follow through on job referrals.

(8) Keep a job, if they have one. Participants must also not reduce their work hours or quit a job, unless the job worker agrees it is for a valid reason.

(9) Accept, at any time, from any source, an offer of employment as determined to be appropriate by the project. A job offered, if determined appropriate by the project, is required to be accepted by the participant without regard to whether the job would interrupt a plan of services, or services in progress unless the participant is participating in an on-the-job training. As defined, "appropriate" is any job a participant is capable of performing (based on assessment information of the project) which pays at least minimum wage and will lead or contribute to the economic self-sufficiency of the family.

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

461-193-0016

Refugee Project Administration; Delegate Authority

AFS, through its State Refugee Program, administers the Oregon refugee services projects.

(1) AFS may choose to delegate authority for all or part of the education, employment, training or support services to a state or local service provider. Services and payments are subject to availability of federal and state funds and may be terminated in part or in full by AFS if necessary federal or state authorization or funding is curtailed.

(2) The level of services provided by or on behalf of AFS may vary by geographic location. This range of services may include services provided to refugee participants without cost to AFS.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070, 411.095 & 411.111

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

461-193-0026

Refugee Project Applicant Orientation

All applicants receive an initial orientation to a service project. The orientation covers information appropriate to the specific project, and may contain the following information:

- (1) Project resources available to participants.
- (2) Employment services available to participants.
- (3) Responsibilities of the project.
- (4) Participant's rights regarding releasing case information.
- (5) The rights, responsibilities and obligations of participants, including the grounds for exemptions and the consequences for refusing or failing to participate.
- (6) The necessity of income from employment earnings to help the participant and family achieve a measure of stability and security to enhance the resettlement process.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97

461-193-0031

Refugee Project Requirements

- (1) To be eligible for refugee employment and employment-related projects, a participant must meet all the following conditions:
 - (a) The applicant must be between the ages of 16 and 64.
 - (b) The applicant must be in search of full-time or part-time employment.
 - (c) The applicant must complete an employment intake.
 - (d) The applicant must sign a project rights and responsibilities document.
 - (e) If the applicant, within 30 days before the intake date, has done any of the following, a good cause determination must be made by the project worker.
 - (A) Refused an offer of employment.
 - (B) Quit a job.
 - (C) Caused their own dismissal from a job.
 - (D) Voluntarily reduced their hours of employment or earnings.
 - (f) If the project worker determines that the applicant does not have good cause, the applicant(s) are not eligible for benefits or services until they demonstrate cooperation with the project.
 - (g) The participant must not be enrolled as a full-time student or intending to enroll as a full-time student within 6 months of their employment intake date.
 - (h) If the applicant is eligible and is selected for the project, eligibility for services is the date of the completed intake.
- (2) In addition, to be eligible for the NAES project, the refugee must meet all the following:

- (a) Must have lived in the United States for less than 12 months. To determine the eligibility period, consider the month the refugee arrives in the United States as the first month, regardless of the day the refugee arrives.
 - (b) Must live in Clackamas, Multnomah or Washington county.
 - (c) Cannot be served in the project after their first 12 months in the United States unless they are in a retention status for job placement.
- (3) To be eligible for services under Refugee Case Service an applicant:
- (a) Must have lived in the United States for less than 8 months; (To determine the eligibility period, consider the month the refugee arrives in the United States as the first month, regardless of the day the refugee arrives.).
 - (b) Must live in Clackamas, Multnomah or Washington counties of Oregon.
 - (c) Must not be eligible for public assistance under the authority of the Senior and Disabled Services Division (SDSD).
 - (d) The following people are eligible for the project:
 - (A) Single individuals.
 - (B) One or two-parent families.
 - (C) Childless couples.
 - (D) Members of a family reunification household.
 - (e) Refugee applicants must apply at their initial United States resettlement agency, or its local representative or acting agency.
- (4) In addition, to be eligible for cash assistance benefits:
- (a) The case financial resources shall not exceed \$10,000.
 - (b) The case shall not receive, from any source, more earned or unearned income than the cash standards for the case size.
 - (c) The case shall not receive project assistance and public assistance from another project or state during the same time period.
 - (d) The case shall complete a case service and NAES project intake.
 - (e) All adults in the case shall sign a Case Service Rights and Responsibilities.

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

461-193-0040

Refugee Project Employees' Responsibilities

Project organizations are responsible for any misconduct, indolence, malfeasance, misfeasance, and nonfeasance of their employees. Any intentional violation of project policy or adjusting or withholding of information to favor or disfavor a participant or other Project service provider shall result in disciplinary action and/or dismissal. Project employees who provide direct or indirect participant services to the project shall comply with the rights and responsibility policy by demonstrating the following:

- (1) Individual actions of employees and the policies of the project should demonstrate a respect for individual differences and a commitment to optimum use of project and community resources to promote early employment and economic self-sufficiency.
- (2) Project workers shall not carry cases of relatives, close friends, individuals they sponsor, or any person living within their home.
- (3) Project workers, and project organizations shall not receive services and/or benefits from the project.
- (4) Project workers shall not give or lend money to, or exchange material goods with, any participant served in the project, or any other federally funded project.
- (5) Project workers shall follow all policies of the project.
- (6) Project workers shall not withhold, or misrepresent participant project information.

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 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97

461-193-0042

Refugee Project Employment Plan

- (1) The Employment Plan is the plan to help the participant attain employment as quickly as possible. All participants in the project must have an Employment Plan.
- (2) The Employment Plan must:
 - (a) Be based on an assessment to reflect the participant's abilities, background, etc.
 - (b) Contain development of a family self-sufficiency component.
 - (c) Accurately and clearly state the participant's goal.
 - (d) Detail the plan for assessment, counseling, treatment, training, educational and other employment-preparation activities the participant must complete to achieve the goal.
 - (e) Specify the plan for services and payments to support the participant in approved activities.
 - (f) Be a joint effort with the participant.
 - (g) Not specify a fixed, target wage.
 - (h) Be used to inform participants of dates, times, and locations of scheduled activities.

- (3) The participant and the project worker complete the Employment Plan at the time of the employment intake.
- (4) Review the Employment Plan:
 - (a) When there is a change in plan direction;
 - (b) At the time of JET completion and evaluation;
 - (c) At the time of the case manager Formal Review; and
 - (d) At any other time that is needed.
- (5) Update the employment plan when:
 - (a) Changes occur in participant employment goals, barriers, participation or support service needs; or
 - (b) At the time of the review.
- (6) Participants may request a project management review if they disagree with their employment plan. If requested, a review must be provided.

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

461-193-0046

Refugee Project Employment Projects and Services

The following projects and services may be offered:

- (1) Application and interview assistance.
- (2) Developing an employment plan.
- (3) Employment counseling.
- (4) Job and English Training (JET).
- (5) Job and English Training (JET) Plus.
- (6) Job development planning and referral.
- (7) Job search.
- (8) Job training.
- (9) New job on-site follow-up.
- (10) New job orientation.
- (11) On-the-Job Training (OJT).

(12) Referral to mainstream resources.

(13) Up-grade assistance.

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

461-193-0121

Inquiries, Grievances, and Reviews

(1) The participant, a third party, or a third party on the behalf of a participant may submit an oral or written inquiry regarding clarification or additional information regarding project policy, services, or other information.

(a) Handle inquiries and complaints in a courteous and effective manner. When the complaint is made about or on behalf of a participant by an interested third party, confidential information shall be safeguarded.

(b) Letters of complaint received about project employees shall be forwarded to their directors.

(c) Letters of inquiry which are beyond the organization's project scope shall be forwarded to the director of the project organization who has direct service responsibility.

(d) Letters of inquiry which are directly related to project policy shall be forwarded to the project manager.

(2) The participant may file a complaint anytime he/she is dissatisfied with the project, its policies, etc. A complaint is filed with the completion of the Grievance Review and Outcome.

(a) The participant may file a complaint within 30 calendar days from the date the project worker's actions result in the participant's complaint.

(b) If the project is closed for any reason while the participant is in the process of filing a complaint or complaint appeal, the complaint process shall proceed even after the case closes.

(c) If a participant is not satisfied with the response to his/her inquiry, the participant may request a review with the project worker regarding this decision.

(3) Reviewing a Grievance:

Note: This section applies to all project case complaints except those cases involved in contested case appeals for penalty staffing.

(a) All appeals must be requested in writing by the participant.

(b) Requests for an appeal must be received within 30 calendar days from the date of the decision on the Grievance Review and Outcome.

(c) Appeals shall be scheduled within 5 working days of the receipt of the written request.

(d) If, in the review outcome, it is decided that the action was not within project policy, the grievance is valid.

(A) If the action was not implemented, no follow-up is needed.

(B) If the action was implemented, the action will be removed and any loss of benefits to the participant will be restored retroactively to the date the benefits were affected.

(e) If, in the review outcome, it is decided that the action taken by the project worker was proper, the grievance is not valid. A written reply shall be sent to the participant.

(f) The participant shall be notified of the outcome of the review by mail within two working days of the decision.

(g) If the participant fails to appear at the review without good cause, the grievance review shall be closed. Reviews for the same complaint shall not be processed.

(4) Level 1 - With the Agency Supervisor:

(a) The level 1 appeal is at the supervisor level. The appeal shall include the agency supervisor, as well as the participant, participant's representative, and agency worker.

(b) The supervisor reviews the grievance, the action which initiated the grievance, and project policy pertaining to the action.

(c) If the participant does not agree with the outcome of the appeal, he/she may appeal the decision to the next level.

(5) Level 2 - With the Agency Director:

(a) The level 2 appeal is at the director level. The appeal shall include the agency director, as well as the participant, participant's representative, agency worker, and supervisor.

(b) The director reviews the grievance, the action which initiated the grievance, and project policy pertaining to the action.

(c) If the participant does not agree with the outcome of the appeal, he/she may appeal the decision to the next level.

(6) Level 3 - With the Project Manager:

(a) The level 3 appeal is at the project manager level. The appeal shall include the project manager, as well as the participant, participant's representative, agency worker, supervisor, and director.

(b) The project manager reviews the grievance, the action which initiated the grievance, and project policy pertaining to the action.

(c) The appeal with the project manager is the highest grievance review level available in the project. The outcome of the grievance review at Level 3 is considered final.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96

461-193-0130

Eligibility Determination Terms; Refugee Case Service Project

The following terms are used in the eligibility determination process for Refugee Case Service:

- (1) Case head: 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.
- (2) Child: the offspring of a person, either natural, legal, or attached to, and does not include an unborn child.
- (3) Dependent child: a person age 19 or less and a full-time student in primary or secondary school or alternative primary or secondary school, who is not married, and not a caretaker relative of their own dependent child, and is not classified as an emancipated youth.
- (4) Disqualified: a person who cannot receive project services and benefits because they have not cooperated in fulfilling an eligibility requirement.
- (5) Emancipated youth: a person under age 18 who has been determined to be a single case by the Immigration and Naturalization Service, or who is unattached to a family.
- (6) Family reunification case: a newly arrived refugee who joins nuclear family members.
- (7) Income: Any money received from capital or labor, as defined in 461-193-0650.
- (8) Ineligible: a person who cannot receive project services and benefits because they do not meet some eligibility requirement not including noncooperation.
- (9) Marriage: legal marriage uniting two people. A legal marriage is one recognized as legal by state statute of the state where the marriage occurred. This includes common-law marriage if recognized as legal in the state where the couple previously resided. A cultural marriage is recognized as legal if it occurred in a country which recognizes it as legal.
- (10) New arrival: a refugee who resettled in Oregon as listed on the I-94 document.
- (11) Parent: the natural, legal, or attached mother or father of a person or unborn child.
- (12) Resource: Any accumulated money or property as defined in 461-193-0185.
- (13) Secondary migrant: a refugee who originally resettled in another state, and was part of another state's Department of State Reception and Placement counts, who has moved to Oregon.

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 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

461-193-0185

Countable Resources; Refugee Case Service Project

The following are types of resources which must be counted in determining financial eligibility:

- (1) Bank Account: Count money in a bank account belonging to one or more members of the case. For bank accounts held jointly with people not in the case, count only those funds contributed to the account by the case members.
- (2) Cash: Count cash on hand, cash in a safety deposit bank, cash held by others, and foreign currency that can be converted to United States currency. The value of foreign currency is its value in United States currency determined by the current exchange rate.

- (3) Disability Benefit: Count state or private disability payments received in a lump-sum.
- (4) Gifts: Treat noncash gifts and winnings according to policy for the specific type of asset. Treat cash gifts and winnings as a resource.
- (5) Motor Vehicle: Exclude up to \$10,000 in equity value of one licensed motor vehicle selected by the case. Count any remaining equity in the vehicle and the total equity of all other vehicles.
- (6) Personal Injury Settlement: Count lump-sum payments as a resource.
- (7) Real Property: Real property is land, buildings, and whatever is erected or affixed to the land and taxed as real property. Treat real property that is not income producing or the case's home as a resource.
- (8) Sale of a Resource: Count proceeds from the sale of all resources except excluded resources totally reinvested in another excluded resource.
- (9) Social Security Benefits: Count all payments except monthly payments.
- (10) Tax Refund: Count all federal and state income tax refunds, as well as property tax refunds.
- (11) UC (Unemployment Compensation): Count all payments other than monthly payments.
- (12) Worker's Compensation: Count all payments other than monthly payments.

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

461-193-0190

Refugee Project Application Process

- (1) People have the right to apply for services and benefits administered by the projects.
- (2) A complete application is required to determine eligibility.
 - (a) The application is considered complete if all information to determine eligibility for the project is provided on the application for all people in the case; AND
 - (b) The application is signed by all adult members of the case, and the non-project spouse, if any.
- (3) The application process shall ensure that project requirements are accurately and promptly applied.
- (4) Project staff shall help all applicants comply with policy requirements of the application process. This includes helping applicants who are unable to understand the application or gather information necessary for eligibility determination.
- (5) For Refugee Case Service, a case shall consist of:
 - (a) A family - the mother and/or father, and any unemancipated children under age 17, and any children age 17 through 19 who are students in a secondary school.

- (b) A husband and wife couple.
- (c) Single adults or emancipated youth who are not in school and who are not part of a family case. Youths classified as single individuals:
 - (A) Shall be considered adults; and
 - (B) Cannot withdraw from their own case and be placed in their parent's case in order to attend high school.
- (6) For all other refugee projects, the case consists only of the individual.
- (7) A participant may withdraw their application at any time during the intake process. An application will be considered to be withdrawn if the participant does not complete the application process.

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

461-193-0221

Refugee Project Training Activities

Training services are provided in coordination with the refugee projects. Participants are required to be actively enrolled in an employment service project.

- (1) Only selected and approved participant vocational training will be considered a higher service priority than job search, job referral, or job placement activities.
- (2) The participant in training must remain a student in good standing and make satisfactory progress in the program.
- (3) The participant must agree to attend classes daily and to report absences to the instructor timely.
- (4) The participant shall be told of the consequences of poor attendance. Poor attendance in training is a noncooperation issue.
- (5) The participant is responsible for arranging transportation and child care to attend training. Lack of child care or transportation is not a valid barrier to participation in classes.
- (6) The training provided must include monitoring.
 - (a) The job worker must review the participant's progress at the end of each month and when training is completed.
 - (b) The instructor monitors attendance and informs the job worker of all absences.
- (7) The training instructor completes a detailed exit evaluation of all training participants. The evaluation covers the participant'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

461-193-0240

Exempt From Participating in NAES

All participants are required to be enrolled in an employment project unless they are exempt. People served by the project are exempt from participation in an employment project if they meet any of the following:

(1) Pregnant females who are:

(a) In their 9th month of pregnancy; or

(b) Experiencing medical complications due to pregnancy that prevent participation in employment or self-sufficiency projects. Documentation from a Project-approved medical authority is required.

(2) Females during their first 90 days after giving birth to a child.

(3) Persons whose individual documented medical condition does not allow participation in employment services at any level as determined by the employment service provider.

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

461-193-0246

Employment Incentives

The Project provides incentives to encourage participants to focus on early employment and economic self-sufficiency. A participant is eligible for an incentive only if the following is true:

(1) The participant is active in the NAES Project.

(2) For a training certificate:

(a) The participant successfully completes Job and English Training (JET) and/or vocational training or became employed before the training was completed.

(b) The participant has met the minimum attendance criteria for training. Minimum attendance criteria is:

(A) Less than 4 absences (excused or unexcused) from JET.

(B) Less than 3 absences (excused or unexcused) from power sewing or pre-industrial training.

(3) For an employment incentive:

(a) The participant successfully completes their first 30-day and/or 90-day full-time employment placement. Eligibility for the incentive starts on the 30th and 90th day of employment in the full-time job.

- (b) The participant is employed in at least two part-time jobs concurrently. The part-time employments must be equal to at least 35 hours per week. Eligibility for the incentive starts on the 30th and 90th day of the job which makes the work week at least 35 hours per week.
- (c) Each participant is eligible for only one 30-day and one 90-day employment incentive, regardless of the number of jobs obtained during their Project eligibility.

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; 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

461-193-0320

Effective Dates for Cash Assistance; Refugee Case Service Project

Eligibility for cash assistance is according to the following dates:

- (1) For new arrivals: The cash assistance date is the 31st day after their arrival in the United States.
- (2) For children born to refugees in the United States, the cash assistance date is the date of birth.
- (3) For cases who have a person who quit a job (or refused an offer of employment, caused their own dismissal from a job, or voluntarily reduced their hours of employment or earnings) without good cause within 30 days of the case service intake date, the cash assistance date is the date they demonstrate cooperation with the project.
- (4) For all other cash assistance benefit eligibles, the cash assistance date is the date of the case service intake when all initial eligibility factors are completed and verified; unless the participant does not complete the original employment intake. The effective date for cash assistance for these cases is the date the verified employment intake is completed.

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. 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

461-193-0470

Eligibility Decision; Refugee Case Service Project

- (1) The project worker determines whether the applicant meets initial eligibility for the project.
- (2) Final determination of eligibility is made by the State Refugee Coordinator.

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. 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 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 19-1997, f. & cert. ef. 10-1-97

461-193-0560

Full Monthly Payment Standards; Refugee Case Service Project

- (1) The level of cash assistance benefit standard is determined by the number of participants in the case.
- (2) The following is the monthly basic payment standard: [Table not included. See ED. NOTE.]

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]

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. 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

461-193-0610

Newborn Child; Refugee Case Service Project

When a child is born to a family within their time eligibility period, the newborn child must be added to the Refugee Case Service case.

- (1) The parent(s) in the case must add the new child to the application and re-sign the form with a new date.
- (2) The parent(s) must also provide verification of the child's birth (e.g., hospital or birth certificate).
- (3) The case may be eligible for an additional cash assistance benefit payment for the month the child was born. The project case's income for the reporting period prior to the baby's birth is evaluated. The calculation of cash assistance benefits is the difference between the basic cash standard levels of the two different case sizes in relationship to the baby's date of birth.
 - (a) If the net income is greater than the cash standard for the new case size, the case is not eligible for an additional cash assistance benefit payment for the month.
 - (b) If the net income is less than the cash standard for the new case size, the case is eligible for an additional cash assistance benefit payment for the month.
- (4) The newborn child's U.S. arrival date and eligibility period is the same as the mother's.

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. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; 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

461-193-0640

The Monthly Client Information Report (MCIR); Refugee Case Service Project

- (1) All participants served in the project, whether or not they receive cash assistance benefits, are required to submit a MCIR each month they are in the project.
- (2) The MCIR is used to report monthly income and resources received by household members during the reporting period.
- (3) The project reporting period is from the 15th of the previous month through the 14th of the current month. Income is counted at the time it is received by the participant, not when it is earned.
- (4) All MCIRs must be completed, signed, and dated on or after the 15th of the month and received by the project by the 18th of each month.
- (5) Checks are issued monthly, near the first day of the month.
- (6) If the MCIR and supporting documentation are not received by the 18th of the month deadline, the check may be later than the first of the month.
- (7) The project shall collect, review, and document information reported on the MCIR.
- (8) MCIRs and payment requests are submitted to the State Refugee Coordinator in accordance with the established monthly schedule.

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

461-193-0650

Countable Income; Refugee Case Service Project

- Any income received during the reporting period and reported by the case shall affect the monthly cash assistance benefits for the benefit month. The following are types of income which must be counted in determining financial eligibility for the project.
- (1) Annuities, Dividends, Interest, Royalties: Count all payments.
 - (2) Child Support: Count income paid voluntarily or per court order by an absent parent for a dependent child.
 - (3) Disability Benefit: Count state or private disability payments received monthly or more frequently than monthly.
 - (4) Earned Income: Adult case member income received in exchange for a person's physical or mental labor. Count the net earned income after allowing deductions for federal, state, FICA and workers compensation taxes. Earned income includes, but is not limited to:
 - (a) Compensation for services performed: This includes wages, salaries, commissions, tips, sick leave, vacation pay, draws, or the sale of one's blood or plasma.
 - (b) Income from on-the-job training or paid job experience.
 - (c) In-kind income, when the participant is an employee of the person providing the in-kind income and the income is in

exchange for work performed by the participant.

(d) Income from self-employment.

(e) Income from profit sharing that the participant receives monthly or periodically.

(f) Income from employer-funded temporary disability insurance and temporary worker's compensation paid to a participant who is still considered to be employed while recuperating from a temporary illness or injury.

(5) Personal Injury Settlement: Count monthly payments.

(6) Public Welfare Benefits: Count cash public assistance received by all case members of the project.

(7) Sale of a Resource: Treat proceeds from the sale of a resource (other than a home) paid on a monthly basis.

(8) Social Security Benefits: Count monthly payments.

(9) Strikers' Benefits: Strikers' benefits are payments made to strikers by their union, whether or not based on the striker's participation in picketing. Count these payments.

(10) UC (Unemployment Compensation): Count monthly UC benefits.

(11) Worker's Compensation: Count monthly worker's compensation 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 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97

461-193-0660

Excluded Resources and Income

(1) Children's Income: Exclude the earnings of participants who are:

(a) Unemancipated and 19 years of age or younger; OR

(b) In a high school approved training.

(2) Home: A home is the place where the case members live. A home can be a house, boat, trailer, mobile home, or other habitation. A home also includes the land on which it is built and contiguous property. Exclude the value of a home when it is occupied by the members of the case.

(3) Incentives: Exclude all Project bonus incentives given for employment and training.

(4) Independent Living Subsidies: These are payments made and services provided by the State Office for Services to Children and Families (SCF) to children ages 16 through 20. The subsidies are to assist the individuals to live independently when their foster care payments were discontinued on or after the date they reached 16 years of age. Exclude all independent living subsidies issued by SCF.

(5) Motor Vehicle: Exclude up to \$9,000 in equity value of one licensed motor vehicle selected by the case. Count any remaining equity in the vehicle and the total equity of all other vehicles as a resource.

- (6) Paycheck Deductions: Exclude paycheck deduction for:
 - (a) Federal, state and social security taxes.
 - (b) FICA and worker compensation benefits.
 - (c) Medical coverage, retirement benefits, union dues, work-related tools and supplies, and mileage reimbursement.
- (7) Project Cash Benefits: Exclude Project cash benefits received as well as any Project emergency fund payments, unless the funds were for an emergent need due to a lost check.
- (8) Public welfare benefits: Exclude food stamp benefits for all participants. Exclude cash public assistance received by non-Project household members.
- (9) Sale of a Resource: Exclude the proceeds from the sale of an excluded resource which is reinvested in another excluded resource.
- (10) SSI (Supplemental Security Income): Exclude SSI monthly and lump-sum payments, even if received by a case member, if that person will be removed from the case the following month.
- (11) R and P (Reception and Placement): Exclude all R and P payments made by voluntary agencies for refugees and received during their first month in the United States.
- (12) Alien Sponsor Assets: Exclude all income and resources of the alien sponsor as long as the participant is one of the following:
 - (a) A Cuban or Haitian entrant.
 - (b) An alien admitted as a refugee, parolee or someone who has been granted political asylum.

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 34-1996, f. 9-26-96, cert. ef. 10-1-96

461-193-0670

Payment Controls; Refugee Case Service Project

- (1) Project management has the right to withhold payment requests if there is reason to believe the request is not complete, under question, or is in violation of project policy and/or federal regulations.
- (2) Cash assistance benefit payments shall be authorized by the project provider and approved by a supervisor on the approved project documents. Final eligibility determination is made by the State Refugee Coordinator.

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

461-193-0690

Overpayments; Refugee Case Service Project

- (1) An overpayment is any cash payment made by the project that exceeds the amount a person is eligible for, and is received by, or on behalf of, that person. An overpayment may result from administrative or participant 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 shall recover the overpayment amount from the case head and all adults who were members of the case at the time of the overpayment. The project may recover overpayment amounts from the following sources or from any other source permitted by law:
 - (a) Reimbursement from the participant.
 - (b) Reduction of ongoing benefits.
 - (c) The amount of any restoration of benefits otherwise payable to the participant (e.g., ending a disqualification).
 - (d) Overpayments not immediately recoverable from a source specified here are subject to collection services through AFS under its administrative OARs.
- (3) Overpayments may be paid in full or under a repayment schedule. All repayment schedules shall be approved by the case service supervisor and the State Refugee Coordinator.
 - (a) The repayment schedule shall 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 next cash assistance check, if the amount of the overpayment is less than the next cash assistance check.
 - (C) Voluntary deduction of all future cash assistance checks until the overpayment is repaid.
 - (b) Cash repayment shall be in the form of a provider check (not a participant's personal check) payable to Adult and Family Services and sent to the State Refugee program. Attach a copy of the Notice of Overpayment and Repayment Plan. The State Refugee Program shall monitor repayment of all overpayments to ensure compliance.

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

461-193-0890

Refugee Project Good Cause for Noncooperation

- (1) The participant may have good cause for noncooperation if any of the following is true:
 - (a) The task, performed on a regular basis, has an adverse effect on the participant's physical or mental health. Documentation from a project-approved medical authority is required.
 - (b) The work site violates established health and safety standards.

(c) The participant has no means of transportation and would have to walk an unreasonable distance to employment or a pickup point. The participant must show that they have made a good-faith effort to secure the needed transportation.

(d) The wage is:

(A) Not at least equal to applicable minimum wage laws; or

(B) If these laws do not apply, the wage (rate for piece work) is less than that normally paid for similar work.

(e) The work schedule does not conform to hours customary to the occupation or hours worked per week are more than those customary to the occupation.

(f) Adequate child care is not available or there is a breakdown in child care arrangements for a child in the household. The participant must cooperate in obtaining child care from another provider within 3 working days.

(g) The position offered is vacant due to a strike, lockout, or other labor dispute.

(h) The employment requires a participant to join a union and the participant has religious objections to unions.

(i) The job and/or employer is discriminatory in terms of age, sex, race, religious or political belief, marital status, handicap, or ethnic origin. Age, sex, and handicap requirements are allowable when there are valid or legal reasons for the requirements.

(j) Because of circumstances beyond the participant's control, such as:

(A) A mental or physical illness, impairment, or condition preventing compliance.

(B) A verified breakdown in transportation with no readily accessible alternative.

(C) Inclement weather that prevented the participant, and others similarly situated, from traveling.

(D) Verified adverse circumstances that affected the participant's ability to attend project activities.

(E) A legitimate breakdown in communication, such as project worker failure to inform the participant of an appointment.

(k) The participant is working in a job and quits to accept a job with one or more of the following:

(A) Higher wage, with equal or more hours.

(B) More hours, which produces a higher case income.

(C) In an employment field that the client prefers with no loss in case income, and provides stable employment.

(l) The participant is making a good faith effort to attend and complete activities approved on the Employment Plan, but is unable to complete activities. Examples of good faith efforts include attendance at activities, and demonstrated efforts to complete all assignments and activities.

(2) The project worker shall determine if good cause exists for noncooperation with project requirements.

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

461-193-0920

Refugee Project Staffing

A staffing is an opportunity for an applicant or a participant to ask for a review of a decision or a proposed decision to a higher authority.

(1) All refugee projects must have policy and procedures for a staffing defined in their project.

(a) A participant may have a staffing if any of the following applies:

(A) The project has not acted on an application for project benefits/services within 30 days of the application.

(B) The project acts to deny, reduce, close, or suspend project services or benefits.

(C) The project claims that a project payment was an overpayment.

(b) The participant and project staff have the following rights:

(A) To submit evidence to establish all pertinent facts and circumstances in the case.

(B) To bring witnesses.

(C) To advance arguments without interference.

(D) To question any testimony or evidence.

(E) To receive a complete description of the issues.

(F) To have the staffing conducted in a language the participant understands.

(G) To respond to the incident.

(H) To know what penalties could be imposed.

(I) To be informed of appeal policy regarding the staffing decision.

(J) To appeal the decision of the staffing.

(2) For NAES and Refugee Case Service projects:

(a) A request for a staffing must be in writing and not later than 5 working days following the date of the notice proposing the action. The request is complete when a staffing request form is filled out and signed by the participant and received by the organization that is proposing the action.

(b) When staffing is requested, the proposed action indicated in the decision notice shall not be applied.

(c) A staffing request shall be dismissed only when:

(A) The request for the staffing was untimely (more than 5 working days following the date of the decision notice), unless it was untimely due to circumstances beyond the control of the participant;

(B) A staffing decision has previously been issued by the project on the same issue for the same participant; or

(C) All issues of the staffing become moot before the staffing decision is made.

(d) The staffing must be scheduled within 2 working days of receiving the request.

(A) The participant must be informed of the scheduled staffing in writing and by mail.

(B) The participant must attend the staffing. The staffing shall also include the case services and employment service supervisors, case manager, and job worker.

(C) If the participant does not appear for the scheduled staffing within 15 minutes of the time set for the staffing, the staffing shall be dismissed. The proposed action shall be implemented immediately. The staffing shall be rescheduled only if the participant had good cause for not appearing within the time frame. If good cause is found, the staffing shall be rescheduled within 3 working days.

(e) A postponement of the staffing may be granted one time upon the request of the participant. Requests must be made no later than one day prior to the scheduled staffing. Both the participant and project staff must agree to the postponement, with rescheduling occurring within 2 working days.

(f) A participant may withdraw a staffing request at any time. The withdrawal shall be effective when received by project staff. The project shall implement the action as defined in the decision notice.

(g) The supervisor conducts the staffing and may expel a person from the staffing if a person engages in conduct that disrupts the staffing. The supervisor may terminate the staffing if the participant's conduct is disruptive or does not allow the staffing to proceed in an orderly manner. If a staffing is terminated because of the participant's disruption of the staffing, the decision will be based on the record created before the staffing was terminated.

(h) A staffing decision must be made for all staffings on the day of the staffing and are effective immediately. The staffing decision is made by the supervisor conducting the staffing.

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 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

461-193-0940

Refugee Project Disqualifications

(1) All refugee projects must have policy and procedures for disqualification defined in their project.

(a) All participant cases who face a disqualification must be sent a notice informing them of their noncooperation, the disqualification to be applied and the date the disqualification will be applied.

(b) The notice must be mailed prior to the effective date of the disqualification.

(2) For NAES and Refugee Case Service projects:

(a) The notice shall also be sent prior to the established monthly client information report cut-off date. If the notice cannot be mailed prior to the cut-off date, the action to be imposed by the notice cannot be effective until the benefit month.

(b) Project disqualifications are imposed within the following conditions and are progressive. There are two levels of

penalties.

- (A) The first disqualification is a \$50 decrease in the payment standard for the case. This disqualification can be applied only one time during project eligibility.
- (B) All other disqualifications result in ineligibility for the entire case.
- (c) Disqualifications are applied the month after the date of the decision notice, unless the notice cannot be sent prior to the MCIR cut-off date. If so, the case action is effective the following month.

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 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

461-193-0960

Refugee Project Cooperation Demonstration

Participants who are disqualified for noncooperation with project requirements must demonstrate cooperation before the disqualification can be ended.

- (1) All refugee projects must have policy and procedures for demonstrating cooperation.
- (2) For NAES and Refugee Case Service projects:
 - (a) The participant must demonstrate cooperation by signing a Cooperation Agreement and completing an assigned appropriate activity.
 - (A) Employment disqualification assigned activities shall be developed and assigned by the job worker.
 - (B) Case service disqualification assigned activities shall be developed and assigned by the case manager.
 - (b) After the participant completes their assigned activity, eligibility for cash benefits for the month following the disqualification month can resume.

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

461-193-0980

Refugee Project Staffing Appeals

- (1) All refugee projects must have policy and procedures for appealing a staffing decision defined in their project.
 - (a) The participant has the right to appeal the outcome of a staffing.
 - (b) The appeal must be in writing.

(2) For NAES and Refugee Case Service projects:

(a) The appeal must be received within 5 calendar days from the date of the staffing decision.

(b) The appeal is not valid until the participant has signed the appeal request form.

(c) The proposed action shall not be implemented when an appeal is made. The proposed action shall remain pending until the appeal process has been completed.

(d) The appeal shall be scheduled within 5 working days of the receipt of the written request.

(e) All OARs of schedule and conducting a staffing shall also apply to appeals.

(f) The appeal is conducted by the project director and a decision rendered the day of the appeal.

(g) If the appeal decision is the same as the staffing decision, the proposed action in dispute shall be implemented immediately.

(h) The participant shall be provided with a copy of appeal decision the same day as the appeal.

(i) If the participant does not agree with the appeal decision, they may appeal the decision further to the State Refugee Coordinator.

(j) The State Refugee Coordinator shall review the appeal decision and issue a decision.

(k) If the participant does not agree with the State Refugee Coordinator's decision, the participant has the right to file a hearing request with AFS.

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 19-1994, f. & cert. ef. 9-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97

461-193-1140

Notice Situations; Refugee Case Service and NAES Projects

(1) Send a Decision Notice whenever:

(a) Project benefits and/or services are denied.

(b) Project benefits and/or services are reduced.

(c) Project benefits and/or services are closed.

(2) 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 first level disqualification reductions, send the decision notice at the time that noncooperation is established and before the MCIR cutoff date set by the State Refugee Coordinator.

- (c) For time eligibility, send the decision notice no later than the first day of the month of closure.
- (d) For failure to provide MCIR and/or MCIR information, send the decision notice no later than the MCIR cut-off date set by the State Refugee Program.
- (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 before the MCIR cutoff date, 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

461-193-1190

Refugee Project Noncooperation

- (1) Noncooperation with refugee project requirements exists when a participant fails to meet the requirements of cooperation and does not have good cause.
- (2) In addition, discharge from a job for misconduct is a knowing, deliberate defiance of reasonable employer expectations. When determining whether a participant's misconduct caused their dismissal from employment, the job worker will consider the following.
 - (a) The employee's misconduct must demonstrate any of the following:
 - (A) A willful violation.
 - (B) A willful disregard of the employer's interests.
 - (C) Recurring negligence.
 - (D) Wrongful intent.
 - (b) The employer must have clearly communicated their expectations to the employee to establish:
 - (A) The reasonableness of the employer's action; and
 - (B) The employee's knowledge of the consequence of the conduct.
 - (c) Gross misconduct (e.g., drunkenness or insubordination) does not have to be preceded by a warning from the employer.
 - (d) A single instance of poor judgement, carelessness, tardiness, unsatisfactory conduct beyond the client's control or inefficiency is not usually misconduct. Persistent instances, or an act that results in serious consequences to the employer, can be considered reasonable grounds for dismissing an employee for misconduct.
- (3) Disqualify participants who fail to cooperate with employment or case service requirements, and/or were discharged from employment due to misconduct, if they do not have good cause for noncooperation or discharge.

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

461-193-1200

Refugee Project Cooperation Requirements

Unless good cause can be determined, all project participants are required to do all the following:

(1) For Refugee Case Service Project:

- (a) Cooperate with case activities and assignments as specified on the Case Service Family Self-Sufficiency Plan.
- (b) Attend and participate in the employment intake.
- (c) Cooperate and participate in formal review.
- (d) Apply for a social security number and Oregon photo identification, and provide copies to the case manager.
- (e) Work toward removal of barriers that prevent full participation in the Case Service Family Self-Sufficiency Plan.
- (f) Attend monthly meetings as prescribed by the case manager.
- (g) Report changes in case size, address or telephone number within 2 working days.
- (h) Provide information on medical problems and conditions which may prevent full participation in employment services.

(2) For all refugee employment projects:

- (a) Complete the assessment process and provide enough information so that the project worker can determine whether to select the participant for employment project participation.
- (b) Be legally able to accept work in the United States.
- (c) Cooperate with case activities and assignments as specified on the Employment Plan.
- (d) Ensure that child care and transportation needs do not prevent full participation in employment or employment-related activities.
- (e) Work toward removal of barriers that prevent full participation as prescribed in the employment plan.
- (f) Attend training as prescribed by each individual training course.
- (g) Attend employment-related appointments and interviews.
- (h) Notify the job worker of the reason for not keeping employment-related appointments and interviews, not attending scheduled activities, or not completing case activities. Notification must be made within 1 working day from the date of the missed appointments, interview, class, or activity.
- (i) Complete action on job referrals.
- (j) Submit valid employment applications.

- (k) Accept a bona fide offer of employment, whether it is temporary, permanent, full-time, part-time, or seasonal.
- (l) Maintain employment. Notify the job worker of any job problems before taking any action on the job, such as quitting.
- (m) Cooperate with the employment service provider and employer to resolve work-related problems.
- (n) Cooperate with the employment service provider on all follow-up activities to job placement.
- (3) In addition for the NAES Project:
 - (a) Complete the Project Activity Log and submit weekly.
 - (b) Attend mass transit training as scheduled.
 - (c) Attend workforce readiness activities as prescribed 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

461-193-1230

Ending Refugee Project Disqualifications

End the disqualification for noncooperation with project requirements as follows:

- (1) The disqualification was applied in error. Do not count the disqualification.
- (2) The participant demonstrates cooperation. If the participant does not demonstrate cooperation, the disqualification cannot end.
- (3) When a participant is given a Decision Notice and they become exempt from employment service participation or ineligible for the project, not resulting from the disqualification, do not impose the disqualification.

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

461-193-1310

Participation Requirements; NAES Project

- (1) Project participants must be actively working toward self-sufficiency by performing specific tasks as assigned to them on their Employment Plan.
 - (a) Participants must be actively engaged in NAES employment activities a minimum of 20 hours a week, and the required number of hours for the specific activity; OR

(b) Employed in a full-time or part-time job.

(2) The participant must log activity hours weekly on a project-approved form. Hours of activity are verified by the job worker.

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

461-193-1360

Transportation Eligibility Requirements; CASE

(1) To receive transportation support services:

(a) The participant must reside more than 10 blocks from the service organization or their place of employment. This requirement may be waived if the participant has a verified medical condition that would prevent them from walking the distance.

(b) The participant must have completed mass transit training to qualify for other transportation support services, unless they have good cause.

(2) Transportation support services may be provided to support the following employment and employment-related service activities:

(a) Mass transit training provided at the time of enrollment into NAES, to provide instruction on the use of the tri-county area mass transit services. Participants may be authorized up to 2 bus tickets for transportation to and from mass transit training. If the participant does not attend mass transit training and has to be rescheduled, additional tickets shall not be authorized.

(b) Training service components of JET, Power Sewing, and Pre-Industrial Training.

(A) Participants may be authorized bus tickets, bus passes or gas money for each day of training.

(B) For classes which are 7 weeks in duration, transportation support services shall be issued two or three times during the training period.

(C) For classes which are 4 weeks in duration, transportation support services shall be issued once during the training period, unless the payments are a combination of a bus pass and bus tickets.

(3) For employment stabilization, participants may be authorized bus tickets, bus passes or gas money to assist in reaching the employment site. This is based on the need to help stabilize employment, until the first pay period. Support services authorized after the first pay period need to have a detailed case narrative justification and management signature authorization. No authorization shall be made for more than 42 working days during a participant's eligibility for NAES.

(4) Bus passes may be authorized for participants who have more than 14 days of training during a month. Bus tickets shall be issued for shorter periods of need.

(5) To receive gas money in lieu of bus tickets, the participant shall have a vehicle and a valid driver's license. Gas money authorization shall not exceed the actual purchase costs for bus transportation for the same distance and same period of time.

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

461-193-1370

Child Care Eligibility Requirements; CASE

- (1) To be eligible for child care support service payments:
 - (a) NAES participant children must be under 13 years of age.
 - (b) Child care must be needed because the adult family member(s) is participating in approved NAES employment plan activities or is employed.
 - (c) The adult family member(s) must attend the child care orientation provided by CASE, which covers information about the American laws of child care and appropriate child care providers.
 - (d) Cases with high child care costs may be charged a copay per the ERDC rate in OAR 461-155-0150. The criteria for review is household income in relation to child care costs and other basic living expenses.
- (2) Criteria for child care payments are:
 - (a) Support service child care payment levels should not exceed \$2 per hour for the first child with the same provider. A lesser rate for additional eligible children in the participant's family will be attempted to be negotiated with the provider. A higher rate of payment may be negotiated for participant's eligible family members if there are no other child care resources available for the case, or the children have specialized care needs.
 - (b) Child care payments shall not exceed \$750 per month per participant case.
 - (c) Child care support services shall not exceed 4 weeks after the start date of employment, or past the end of required employment training.
 - (d) Support service child care shall be authorized only to child care providers listed per OAR 461-165-0180 or registered through the Child Care Division.
- (3) The coordination specialist identifies appropriate child care providers with compatible language in the participant's geographic area and arranges for the participant to contact the provider. The participant is informed of the time frame in which they need to contact the Project to authorize child care.
- (4) If the participant does not select the presented child care provider, they must have good cause, which is limited to the child care provider being located in an area that requires the participant to take more than 2 bus transfers or that is not within a few blocks from bus routes.
- (5) The coordination specialist shall make a follow-up visit with the participant within 5 working days of placing the participant's child(ren) in care to determine if the referral was successful. If a child care barrier still remains, the coordination specialist and job worker will continue to work with the family to resolve the barrier.

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

461-193-1380

Support Service Eligibility Requirements; CASE

(1) Refugees may be eligible for support services if they meet the following eligibility criteria:

(a) The refugee is fully cooperating with NAES activities and responsibilities. Participants who have a disqualification are not eligible to receive CASE services unless they have agreed to cooperate.

(b) The participant does not have other resources or income available. Other resources that are considered a higher priority than CASE support services are:

(A) For child care, any of the following:

(i) Employment\Education-Related Day Care (ERDC).

(ii) An adult in or out of the household available to provide care free of charge.

(iii) Changing employment plan activities so that a family member can care for the child.

(B) In any month that the household income is above the cash assistance benefit standard for the case size, the case is not eligible for support services. For individualized support services, based on the specific need and cost, the participant and the project may share in the purchase.

(C) The participant has resources or support services from their sponsor or other previously resettled extended family members.

(2) Support services will be made available case by case, based on the participant's individual needs. The job worker shall develop a support service action plan which will be adjusted as the case conditions change. The coordination specialist shall approve support service action plans and issue payments to support the services as authorized.

(3) Support services are available to participants to:

(a) Allow participation in employment service authorized activities and components.

(b) Remove or reduce barriers to employment.

(c) Support job entry, including enabling disqualified participants, who are not cooperating, to attend a verified job interview or accept a verified job offer.

(d) Help to maintain employment.

(e) Support voluntary job search.

(f) Enable completion of approved training.

(4) Support service payments:

(a) Must be issued directly to the provider, for child care payments.

(b) May be issued to the participant or the provider, as determined by the coordination specialist.

(5) Project support service components include:

- (a) Coordination of services.
- (b) Transportation support services.
- (c) Child care support services.
- (d) Child care training.
- (e) Individualized support services such as work clothing, tools, employment card, and over-the-counter reading glasses.
- (f) Identifying and resolving medical barriers to employment.
- (6) Authorization of support services shall be as follows:
 - (a) There shall be no retroactive reimbursement provided of transportation costs.
 - (b) Support services shall be dispensed based on the most cost-effective use of funding, effective use of CASE staff time, and administrative cost effectiveness.
 - (c) All direct employment-related individualized support services shall have a written justification of need from the employer or transcribed by the project from the employer. This justification shall have a detailed accounting of the specific items required for the position. The coordination specialist and the job worker shall review the specific need. They shall jointly determine if the employment situation is stable, if the support service will translate into long-term employment retention for the client, and if the project can justify the outlay.
 - (d) The purchase of over-the-counter glasses may be requested from the participant, training instructor, job worker, or employer. Reading glass purchase is based on the best judgment of the coordination specialist from information received. No prescription glasses shall be purchased with support service funding.
 - (e) For other services, the employer and/or the participant shall submit a detailed written justification for support service to retain or enter employment. The coordination specialist and the job worker shall review the specific need. They shall jointly determine if the employment situation is stable, if the support will translate into a long-term retention for the client, and if the project can justify the outlay.
- (7) The provider of all individualized support services shall fully account for purchases with receipts attached to the justification document.

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

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**Oregon Administrative Rules
1998 Compilation**

DEPARTMENT OF HUMAN RESOURCES, ADULT AND FAMILY SERVICES DIVISION

DIVISION 195

SUPPORT SERVICES

461-195-0001

Child Support Program Definitions

The following definitions shall apply to OAR 461-195-0001 through 461-195-0230, inclusive:

- (1) "ADC" means "Aid to Dependent Children", a public assistance program that provides cash benefits to a caretaker relative of a needy child or children, in order to provide for the child(ren)'s basic needs, when the child(ren) is deprived due to the absence, incapacity, unemployment, or under-employment of a parent. The ADC Program is administered by each state, and is jointly funded by the federal and state governments under Title IV-A of the Social Security Act. ADC is referred to as "AFDC" (Aid to Families with Dependent Children) by the federal government and by most states.
- (2) "Administrative Process" or "Administrative Procedure" means the process under the laws of the State of Oregon, or similar process in any other state, under which the Administrator of the Support Enforcement Division, or a district attorney, is empowered to enter or modify a support obligation after allowing due process, including rights to a hearing, to the obligor and the obligee.
- (3) "Adult and Family Services Division" or "AFS" is the Division of Oregon's Department of Human Resources that is responsible for administration of the ADC Program, the Child Support Program, and certain other public assistance programs in Oregon.
- (4) "Age of Majority" means the age at which a person attains adulthood. In Oregon the age of majority is 18, but child support obligations may continue beyond the age of majority, depending upon provisions of individual child support orders.
- (5) "Arrearage" or "Arrears" means the total amount of unpaid past-due support the obligor owes on any case. When support is ordered on a monthly basis, this term refers to the total unpaid amount for all months prior to the current month. "Arrearage" may also include the amount due under any judgment for unreimbursed assistance.
- (6) "Assignee" means AFS, CSD, or equivalent agencies in any other state to which support rights for a person are assigned, under an assignment.
- (7) "Assignment" or "Assignment of Support Rights" means an authorization for a specified assignee to retain all, or a

portion of, current and past-due payments owed for the support of any person for whom the assignee is granting, or has granted, unreimbursed ADC or ADC-related benefits. The purpose of an assignment is to allow reimbursement of ADC benefits the assignee has granted. An assignment is authorized either:

(a) By a written authorization signed by an ADC applicant or recipient; or

(b) In Oregon, automatically by operation of law, whenever AFS provides ADC for any person.

(8) "Audit" means an administrative analysis, performed by authorized staff, of all documentation of amounts owed and paid on the support obligation, for the purpose of determining the correct amount.

(9) "Beneficiary" means any child, spouse or former spouse for whom an obligor has been ordered (or has agreed) to pay support, under a court order, an administrative process order, or a voluntary agreement.

(10) "Child Support Unit" or "CSU" means the unit within DHR and AFS that is responsible for providing billing, receipting, distribution, accounting, and recordkeeping services for all child support cases being enforced in Oregon, or on behalf of Oregon by another state, under Title IV-D of the Social Security Act.

(11) "Children's Service Division" or "CSD" is the Division of Oregon's Department of Human Resources that is responsible for administration of foster care programs, children's protective services programs, juvenile corrections programs, and other related programs, including programs operating under Title IV-E of the Social Security Act.

(12) "Collectible Unreimbursed Assistance" or "CUA" means the maximum amount that CSU may retain, from payment of current support and arrearages, to reimburse AFS for ADC on any case.

(13) "Court Order" means any judgment, decree, or order of any court, or any administrative process order, requiring an obligor to provide child or spousal and/or medical support, for specified beneficiaries.

(14) "Court-Ordered Amount" or "COA" means the periodic payment amount, usually monthly, ordered by administrative process or by a court for support. The COA can be either the amount for each beneficiary on a support case, or the total amount for all beneficiaries in a single support case.

(15) "Department of Human Resources" or "DHR" is the department of Oregon state government that has overall responsibility for the Oregon Child Support Program under Title IV-D of the Social Security Act.

(16) "District Attorney" or "DA" means the district attorney for an Oregon county. In most Oregon counties, the DA is responsible for providing support enforcement services, when requested, on all support cases where no beneficiary is receiving ADC and no CUA is owed.

(17) "Enforcing Agency" means the entity that is responsible under ORS 25.080 for providing support enforcement services on any given case. This entity is either the Support Enforcement Division (SED) or the district attorney for an Oregon county.

(18) "Execution" -- See "Garnishment".

(19) "Full Collection Service" means the process by which SED, under its contract with DHR and AFS, may request the Secretary to certify any child support obligation to the Secretary of the United States Treasury, for collection under the appropriate section of the Internal Revenue Code.

(20) "Garnishment" and "Execution" are processes by which an enforcing agency issues or obtains a writ to attach specified property, assets, funds, or other interests of an obligor, in order to collect part or all of a support debt. A garnishment is distinguished from a wage assignment in that a garnishment is of limited duration, whereas, a wage assignment is continuing.

(21) "Guidelines" refers to the guidelines, the formula, and related provisions established by SED, in OAR 137-050-

0320 through 137-050-0490, for determining child support award amounts in Oregon.

(22) "Obligee" means any person to whom an obligor has been ordered (or has agreed) to pay child support, spousal support, alimony, and/or medical support, under an administrative process order, court order, or voluntary agreement. The obligee is usually the custodial parent, or other designated person, having legal or physical custody of the beneficiary children under a support order.

(23) "Obligor" means any person who is required (or has agreed to pay child support, spousal support, alimony, and/or medical support, under an administrative process order, court order, or or voluntary agreement. The obligor is usually the absent non-custodial parent of the beneficiary children under a support order.

(24) "Regional Representative" means the individual representing the federal Office of Child Support Enforcement (OCSE) in the multi-state region that includes Oregon.

(25) "Review" means either:

(a) An assessment of the income and resources of the obligee and obligor, and of the needs of the child or children, on any child support case. A review is conducted by the enforcing agency, to determine whether or not the current child support award amount on any case is consistent with the appropriate amount under Oregon's guidelines; or

(b) An administrative computation, performed by authorized child support staff, to determine the correct amount of arrearages an obligor owes under the court order(s) on a child support case.

(26) "Satisfaction of Support Judgment" or "Satisfaction" means a legal document, signed by the obligee or assignee, before a notary public, which provides that an obligor is to be given official credit for having paid a specified amount of support, or other consideration in lieu of support, or for having paid all support due for a specified period of time.

(27) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(28) "Support" means cash payments or other benefits that a person has been ordered by a court or by administrative process, or has voluntarily agreed, to provide for the benefit and maintenance of another person:

(a) "Child Support" refers to payments that an obligor has been ordered (or has agreed) to pay for the benefit of a child;

(b) "Medical Support" refers to health and dental insurance benefits, or to payments for actual services provided, that an obligor has been ordered (or has agreed) to provide for the benefit of a child, and/or a spouse, former spouse, or obligee;

(c) "Spousal Support" refers to payments that an obligor has been ordered (or has agreed) to pay for the benefit of a current or former spouse.

(29) "Support Enforcement Division" or "SED" is the division of Oregon's Department of Justice that is responsible for establishing paternity, obtaining judgments for arrears, and for establishing and enforcing support obligations, on behalf of all children who:

(a) Are receiving ADC, or who have received CUA in Oregon;

(b) Are receiving ADC, or who have received CUA in another state, in cases where an obligor, absent parent, or alleged father resides or works in Oregon; or

(c) Are under the enforcement jurisdiction of an Oregon county that has contracted its support enforcement responsibilities to SED, in lieu of having the county district attorney perform these responsibilities.

(30) "Wage or Income Withholding" means a judicial or administrative process under which an obligor's employer or trustee is ordered to withhold a specified percentage, or a specified amount, from each and every paycheck or benefit payment of an obligor, for the purpose of paying current and/or past-due support. Wage withholding is distinguished

from garnishment as follows: Wage withholding will occur continuously under a single order and is not subject to claim of exemption, a garnishment occurs for only a limited duration under a single writ and is subject to certain exemptions provided by law.

Stat. Auth.: ORS 18.400, 23.185, 25.010, 25.080, 25.210, 25.270, 107.415, 109.510, 180.320, 180.340, 409.010, 409.020, 409.050, 411.040, 411.060, 416.400, 416.470, 418.005, 418.035 & 418.042

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 10-1990, f. 3-14-90, cert. ef. 4-1-90; AFS 14-1990, f. & cert. ef. 6-7-90

461-195-0010

Child Support Participant Grievance

(1) For the purposes of this rule the following definitions shall apply.

(a) "Contractor" means the Department of Justice, Support Enforcement Division and any Oregon District Attorney's Office that operates a child support enforcement program by contract with DHR.

(b) "Program participant" means any obligor, obligee or beneficiary in a DHR child support case or any person denied services after submitting an application.

(c) "Grievance" means a formal complaint filed against any contractor or other office of the Oregon Child Support Program as set out in this rule.

(d) "Grievant" means a program participant who has filed a grievance as set out in this rule.

(2) Program participants of the Oregon Child Support Program are entitled to fair, professional, courteous and accurate service. To enable program participants a means to formally express to DHR when they perceive that they have not received fair, professional, courteous or accurate service, a grievance procedure is established. This grievance procedure shall be administered by DHR.

(3) Grievances may be filed by program participants or attorneys or other employees of law offices representing program participants against any contractor or other office of the Child Support Program.

(4) It is recognized that child support enforcement activities may engender negative reactions among some program participants. It is further recognized that a high level of service may not result in desired support payments. Therefore, a grievance filed against a contractor or other office of the Child Support Program must be investigated to determine if it falls within one of the below exclusions. Grievances that will not be investigated further include:

(a) Grievances that protest actions that are prescribed or permitted by state administrative rule or law or federal law or regulation;

(b) Grievances that protest that support payments have not been made if the contractor has taken appropriate steps in accordance with state and federal rules to obtain payments;

(c) Grievances filed regarding actions taken by, or failure to take action by, a child support agency of another state.

(d) Grievances in which the form is merely used to convey information to, or request an action by a child support office and the contents of the form do not constitute a complaint about that office.

(5) The decision to return the grievance without further investigation or send it to the appropriate office for resolution shall be at DHR's discretion.

- (6) Grievances shall be made on a form developed by DHR.
- (7) Nothing in this rule precludes any program participant or any other person or entity from expressing complaints to DHR or any contractor by any other method.
- (8) Grievance forms shall be available to program participants from DHR. The address and telephone number where a grievance form can be obtained and information about the grievance process shall be:
 - (a) Conspicuously posted in all contractor offices;
 - (b) Included in the standard application for IV-D services;
 - (c) Included in initial letters sent to obligors and obligees by DHR;
 - (d) Included in the Child Support Program's general information pamphlet;
 - (e) Included in or with an annual notice mailed to obligors and obligees.
- (9) Completed grievance forms must be filed by grievants with DHR. Completed grievance forms or photo-copies of these forms filed with contractors or other child support offices shall be immediately forwarded to DHR. Upon receipt of the grievance, DHR shall:
 - (a) Record receipt of the grievance;
 - (b) Investigate the grievance to determine if the grievance is appropriate per (4) of this rule.
 - (c) If the grievance is inappropriate per (4) of this rule, DHR shall return the grievance to the grievant with an explanation about why it has been returned;
 - (d) If the grievance is not returned to the grievant it will be forwarded to the grievance coordinator(s) of the contracting office(s) or other office of the Child Support Program for resolution.
- (10) Upon receipt of the grievance, the office against whom the grievance has been filed shall investigate the grievance. That office will either take corrective action and notify the grievant or contact the grievant to explain why corrective action is not appropriate. DHR will set time limits for the contractor to address the grievance, not to exceed 90 days from the date the grievance is received at DHR. The date received in DHR shall be considered to be the date the grievance is screened and accepted.
- (11) Upon completion of grievance processing the office against whom the grievance has been filed will send the grievance form to DHR with a report of the grievance investigation and the disposition.
- (12) Grievances that allege serious violations of personnel rules or standards of personal conduct, such as, but not limited to, allegations of racial or sexual discrimination or sexual harassment, in which allegations are substantiated, shall be removed from this grievance process and be part of the personnel process of the office against whom the grievance has been filed.
- (13) A record of grievances and dispositions shall be maintained by DHR for a period of three years.
- (14) Contractors or other support offices against whom a grievance has been filed shall not discriminate against the grievant because a grievance has been filed.
- (15) Performance reviews of contractors by DHR shall include examination of the contractor's compliance with these grievance procedures and an examination of grievances filed against the contractor and resolution to such grievances for the previous calendar year.

Stats. Implemented: ORS 25.243

Hist.: AFS 1-1995, f. 1-3-95, cert. ef. 5-2-95; AFS 32-1995, f. & cert. ef. 11-8-95; AFS 20-1997, f. & cert. ef. 11-7-97

461-195-0015

Use of Social Security Numbers in the Child Support Program

- (1) Parties in child support cases that are enforced under ORS 25.080, 418.042 and/or 418.032 may, at the discretion of the Department of Human Resources (DHR), be required to provide their social security numbers to DHR or other agencies providing child support services under contract with the DHR.
- (2) Social Security numbers provided under this rule shall be used by DHR and its contract agencies as necessary for the following purposes and for no other purposes:
 - (a) The establishment, modification and enforcement of child and medical support obligations;
 - (b) Accounting and distribution of support payments;
 - (c) For administration of the general welfare laws of the State of Oregon;
- (3) When a party in a child support case is required to provide a social security number under this rule, DHR or its contract agency shall provide written notice to the party that shall include the following:
 - (a) That providing the social security number is mandatory; and
 - (b) The statutory and rule authority for such requirement; and
 - (c) The purpose(s) for which the social security number will be used.
- (4) There is no requirement under this rule that a child support agency obtain a social security for a party only from the party. Child support agencies may obtain social security numbers for parties from other sources.
- (5) When the social security number for a party is obtained from a source other than that party, there is no requirement that DHR or its contracting agency provide notice to the that party regarding disclosure and/or use of such social security number.

Stat. Auth.: ORS 25.080; 409.20; 411.60; 5 USC § 552a, note 7; 42 USC § 405 (c)(2)(C)(i), (v)

Stats Implemented: 5 USC § 552a, note 7; 42 USC § 405 (c)(2)(C)(i), (v)

Hist.: AFS 4-1996, f. 2-21-96, cert. ef. 7-1-96

461-195-0020

Payment of Support Obligations

- (1) For ADC-BAS, the obligor on a support order must make all support payments to DHR while the obligee receives program benefits from the Division, or care, support, and services from CSD.
- (2) Obligors must continue to pay support to DHR after the ADC-BAS benefits or care, support and services end, for as long as arrearages are assigned to the state or support enforcement services are provided to the obligee.

(3) DHR will provide collection, accounting and disbursement services on all cases referred by the district attorney. These services will be based on written application for enforcement services on which the district attorney has agreed to take enforcement action and on cases certified to DHR before October 1, 1981. If spousal support is included in the order, these services will also be supplied for spousal support.

(4) DHR will provide collection, accounting and disbursement services on any case referred by the district attorney when the district attorney has received a written application for enforcement services:

(a) The district attorney agrees to take enforcement action; or

(b) Any support obligation due as current support within the preceding six months is more than 60 days overdue.

(5) When a case is referred by a district attorney or when it becomes an active benefit case, DHR will send notice to the obligor and obligee of the requirement to pay through DHR. The case will be activated, and DHR will begin billing in the first full calendar month following 30 days from receipt of the referral or from the date the ADC-BAS benefits are issued.

(6) When support obligations are required to be paid to DHR, obligors may pay by money order, personal check, certified check, cashier or traveler's check, earnings allotment, cash personally delivered, or by authorizing an electronic fund transfer from their checking account.

(7) Electronic fund transfers may be established by completing an application furnished by and delivered to DHR, subject to the following conditions:

(a) The obligor's financial institution must be a participant in the Oregon Automated Clearinghouse Association;

(b) DHR's Child Support Program must have an active support file on the obligor;

(c) The application must be complete and signed by all signatories to the checking account;

(d) The application must establish a monthly withdrawal date, no later than the monthly support due date, and the amount to be paid to DHR from the checking account each month. DHR will withdraw the authorized sum each month, no earlier than the established monthly withdrawal date;

(e) DHR will notify obligors by mail if they qualify for the electronic fund transfer process and of the initial withdrawal date;

(f) The obligor may revoke the electronic fund transfer authorization by notifying DHR at least ten days before the monthly withdrawal date;

(g) DHR may revoke the authorization when there are insufficient funds in the obligor's checking account to make the authorized payment and no advance notice of that has been received. DHR will mail a notice of revocation to the obligor;

(h) DHR may refuse an obligor's application if it is not fully completed, or if the obligor has made any support payment to DHR with insufficient funds in the preceding 12-month period.

Stat. Auth.: ORS 25.020, 409.020, 409.050 & 411.060

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 14-1990, f. & cert. ef. 6-7-90; AFS 4-1991, f. 1-28-91, cert. ef. 2-1-91

461-195-0035

Referral of ADC, ADCM, OHP Cases to SED

- (1) The Division notifies SED when ADC-BAS, ADCM (except ADCM-EA) or OHP is issued to pregnant women or children who have one or both parents absent from the benefit group.
- (2) SED is responsible for establishing paternity and enforcing child and medical support obligations for all children in ADC-BAS, ADCM (except ADCM-EA) and OHP cases when there is one or both parents absent from the benefit group.

Stat. Auth.: ORS 409.020, 409.050, 411.060 & 418.042

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 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94

461-195-0040

District Attorney Enforcement Responsibility for New and Continued Child Support Services

- (1) The district attorney of any Oregon county shall provide support enforcement services pursuant to ORS 25.080 for any resident of the same county who applies for service. However, if the person obligated to pay support resides in the same county where the operative support order is docketed, the district attorney of the order county shall provide the enforcement services.
- (2) The district attorney of any Oregon county shall provide continued support enforcement services as required in OAR 461-195-0055 for any person who resides in the same county. However, if the person obligated to pay support resides in the same county where the operative support order is docketed, the district attorney of the order county shall provide the enforcement services.
- (3) If the person applying for or receiving continued service resides in another state, the district attorney of the Oregon county where the obligor resides shall provide enforcement services.
- (4) If both the person applying for or receiving continued service and the obligated party reside in another state, the person applying for or receiving continued service will be advised to contact the support enforcement agency in the state in which they reside.
- (5) The matrix set out in **Table 1** is offered as an aid in applying sections (1) through (4) of this rule.
- (6) Notwithstanding the foregoing sections, the district attorney of any Oregon county may elect to perform support enforcement service for any obligee who so authorizes.

[ED NOTE: The Table referenced in this rule is not printed in the OAR Compilation. Copies are available from the Department of Adult and Family Services.]

Stat. Auth.: ORS 25.080, 25.160, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 59-1986(Temp), f. & ef. 8-1-86; AFS 9-1987, f. & ef. 2-6-87; AFS 28-1988, f. & cert. ef. 4-5-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-057; AFS 10-1992, f. & cert. ef. 4-3-92

461-195-0042

Cases with Contradictory Purposes

- (1) Cases with contradictory purposes are defined as two or more child support cases in which the same person is, or has been, both an obligee and obligor in those cases and the cases are, or have been, assigned to the same enforcing agency.
- (2) The enforcing agency represents the interests of the state. There is no conflict of interest when the same enforcing agency is assigned cases where the same person is, or has been, both an obligor and an obligee. Enforcing agencies are responsible for impartial application of the law. Nothing in this rule precludes enforcing agencies from having cases assigned to them in which the same person is, or has been, both an obligor and obligee.
- (3) It is recognized that a person receiving child support services or a person eligible to receive child support services may be reluctant to pursue those services because the enforcing agency through which they do or would receive services is, or has been, the enforcing agency in another case where the person is, or has been, the opposite party.
- (4) A person who has cases in which that person is, or has been, or upon application would be, both an obligor and obligee with cases assigned to the same enforcing agency may ask the enforcing agency to transfer one of the cases to a different enforcing agency. The enforcing agency shall consider the request and either grant the transfer or explain to the requestor why the transfer is not granted.
- (5) If a case is transferred, transfer shall be done in coordination with DHR. Assignment of a new enforcing agency shall take into consideration the needs of the requestor and the opposite party.
- (6) If the enforcing agency denies the request for transfer, the requestor may ask DHR to review the decision of the enforcing agency and to facilitate a resolution.

Stat. Auth.: ORS 25.020, 25.080, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 6-1995, f. 2-17-95, cert. ef. 3-1-95

461-195-0043

Uniform Application for Child Support Enforcement Services

- (1) For the purpose of this rule, the following definitions apply:
 - (a) "IV-D Agency" means the AFS Child Support Accounting Unit (CSAU), the Support Enforcement Division (SED), and the county District Attorneys (DA);
 - (b) "Enforcing Agency" means SED or the DA, whichever is responsible for providing services under ORS 25.080.
- (2) For the purpose of providing uniform child support enforcement services under Title IV-D of the Social Security Act, the IV-D Agency shall provide a standard application form prescribed by the Department of Human Resources (DHR), to any person requesting child support enforcement services. An explanatory cover sheet, prescribed by DHR, shall be attached to the application. Except for the application form and cover sheet, the form required under section (4) of this rule, and any statements necessary to respond to inquiries about these forms, no other written or oral statements concerning an applicant's qualification for services nor any contract for service shall be offered.
- (3) The application form shall:
 - (a) Contain a statement that the applicant is requesting child support enforcement services including enforcement of health provisions;

(b) Require the applicant's signature and date of application.

(4) The IV-D Agency shall provide to applicants for child support enforcement services, the following information in a form prescribed by DHR:

(a) The applicant's rights and responsibilities;

(b) An explanation of enforcement activities for which fees are charged including the application fee referred to in section (6) of this rule;

(c) Policies on cost recovery;

(d) Policies on distribution of collections.

(5) The standardized application form and cover sheet, and the form required under section (4) of this rule, shall be readily available to the public in each IV-D Agency office:

(a) The IV-D Agency shall provide the standardized application form and cover sheet, and the form required under section (4) of this rule, upon request to any individual who requests services in person;

(b) When a request for child support enforcement services is made in writing or by telephone, the IV-D Agency receiving the request shall send the individual the standardized application form and cover sheet, and the form required under section (4) of this rule, within five working days from the date the request is made.

(6) The IV-D Agency shall accept an application as it is filed, on the day it and the application fee are received.

(7) The IV-D Agency shall create a skeleton file on the computerized system within two working days of receipt of the application providing circumstances beyond the control of the IV-D Agency do not occur.

(8) The IV-D Agency shall provide the information required under section (4) of this rule:

(a) If the requesting individual is not a recipient of public assistance, along with the standard application form;

(b) If the individual receives public assistance, within five working days of referral from AFS.

(9) Once an application for child support enforcement services is accepted, if necessary for establishment and/or enforcement purposes, the Enforcing Agency shall solicit additional relevant information by means of a form approved by the IV-D Director.

Stat. Auth.: ORS 25.080, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 16-1994, f. 8-4-94, cert. ef. 12-1-94

461-195-0045

Application Fee for Non-ADC Child Support Enforcement Services

(1) The AFS Child Support Unit shall pay to the federal Department of Health and Human Services a \$1 application fee on behalf of each applicant who applies for non-ADC child support enforcement services after October 1, 1985.

(2) AFS shall recover the fee payment from each applicant by deducting it from any unassigned support receipted by AFS.

Stat. Auth.: ORS 25.080, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 56-1985(Temp), f. & ef. 10-1-85; AFS 2-1986, f. & ef. 1-17-86; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0048

461-195-0047

Establishment of Arrearages on Oregon Order Child Support Cases

- (1) Agencies that contract with the Department of Human Resources to provide child support establishment and enforcement services shall establish arrearages on child support cases when the following conditions have been met:
- (a) There has been an application for child support services from either party in the case or there has been a mandatory referral for support services because public assistance or social services have been provided to the family;
 - (b) There is an Oregon child support order or the order from another state has been registered in Oregon;
 - (c) DHR or its contract agency has determined that there is a need to establish the arrearage balance on the case because:
 - (A) There is no official record or no complete record of payments from DHR or another state child support office; or
 - (B) There is a reason which necessitates that the arrearage on the DHR record be reestablished and because there is insufficient information, reestablishment could not be accomplished by use of a satisfaction, accounting adjustment or audit of the support account; and
 - (C) There has been a request for arrears establishment by a party or DHR or the contract agency has determined that there is a reason that arrears should be established or reestablished.
- (2) A party requesting establishment or reestablishment of an arrearage must furnish an accounting that shows the payment history in as much detail as is necessary to demonstrate the periods and amounts of any arrearage.
- (3) Where an arrearage had earlier been established, through a process which afforded notice and an opportunity to contest to both parties, the arrearage from that period shall not be reestablished except that if interest had not been included in the establishment, interest may be added for that period.
- (4) The DHR contract agency may establish or reestablish an arrearage by either:
- (a) Use of the judicial process authorized under ORS 25.330; or
 - (b) Use of the administrative process authorized under ORS 416.429.
- (5) Upon completion of the arrearage establishment process in subsection (2)(a) or (b) of this rule, the DHR contract agency shall either adjust the DHR record to reflect the new arrearage amount or send the order to the Child Support Accounting Unit to have the DHR record adjusted to reflect the new arrearage amount.

Stat. Auth.: ORS 25.080; 409.20, 411.60; 25.330; 416.429

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1996, f. 2-21-96, cert. ef. 3-1-96

461-195-0048

Adding Interest Calculations to Individual Child Support Cases

(1) At the request of a party in a child support case, DHR and its contract agencies shall add interest calculations to child support accounts under the following conditions:

- (a) The child support order is an Oregon order;
- (b) Interest shall be calculated per ORS 82.010 from the of entry of a judgment in Oregon;
- (c) The requesting party must provide a month by month calculation showing support accrual, principal due and interest accrual for each month with total principal and interest due as separate totals at the end of the calculations;
- (d) The party must make a written request that the interest be added to the support account to DHR or the contract enforcement agency having responsibility for the case and provide the calculations specified in subsection (1)(c) of this rule at the same time.

(2) The DHR contract enforcement agency shall add the interest to the case by reestablishing the arrearage on the case per OAR 461-195-0047.

(3) DHR contract agencies may limit adding interest to the case under this rule to one time per every 24 months after the process has been completed the first time.

(4) Where the Child Support Program has initiated a request to another state to establish an order in that state or to enforce an already existing order in that state, and that state's child support agency calculates and charges interest, interest accrual from that other state may be added to the DHR support record by means of administratively reconciling the records. The provisions for interest calculation and arrears establishment in this rule do not apply in this circumstance.

Stat. Auth.: ORS 25.080; 409.20, 411.60; 25.330; 416.429; 82.010

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 6-1996, f. 2-21-96, cert. ef. 3-1-96

461-195-0050

Case Closure

(1) The AFS Child Support Unit (CSU), the Support Enforcement Division (SED) of the Department of Justice, and the county district attorneys (DA), may close a child support case whenever the case meets at least one of the following criteria for case closure:

- (a) There is no longer a current support order, and arrearages are under \$500 and there are no reasonable expectations for collection or the arrearages are unenforceable under state law;
- (b) The non-custodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken;
- (c) Paternity cannot be established because:
 - (A) A genetic test, or a court or administrative process, has excluded the putative father and no other putative father can be identified; or

(B) In a case involving incest or forcible rape, or where legal proceedings for adoption are pending, the Department of Human Resources has determined that it would not be in the best interests of the child to establish paternity.

(d) The location of the non-custodial parent is unknown, and the state parent locator service has made regular attempts using multiple sources to locate the non-custodial parent over a three-year period, all of which have been unsuccessful;

(e) The non-custodial parent cannot pay support for the duration of the child's minority because the parent is both:

(A) Institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential; and

(B) Without available income or assets which could be levied or attached for support.

(f) The non-custodial parent:

(A) Is a citizen of, and lives in, a foreign country; and

(B) Does not work for the Federal government or for a company with headquarters in or offices in the United States; and

(C) Has no reachable income or assets in the United States; and

(D) Oregon has been unable to establish reciprocity with the country.

(g) The state parent locator service has provided location-only services based upon a request under 45 CFR 302.35(c) (3);

(h) The custodial parent, or applicant for services, requests closure, and:

(A) There is no assignment to the state of medical support; and

(B) There is no assignment of arrearages that have accrued on the case.

(i) DHR has made a finding of good cause, in accordance with federal regulations cited as 45 CFR 302.31(c) and 45 CFR 232.40 through 232.49 or 42 CFR 433.147, and has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative;

(j) In a non-ADC case (excluding a non-ADC Medicaid case), SED or the DA is unable to contact the custodial parent, or applicant for services, within 30 calendar days, despite attempts by both telephone and at least one certified letter; or

(k) In a non-ADC case, SED or the DA documents the circumstances of noncooperation by the custodial parent, or applicant for services, and an action by the custodial parent, or applicant for services is essential for the next step in providing enforcement services.

(2) On any case meeting the criteria in subsections (1)(a) through (f), (j), or (k) of this rule, if SED or the DA elects to close the case:

(a) SED or the DA must notify all parties to the case in writing, at least 60 calendar days prior to closure of the case, of any intent to close the case. SED and the DA will document the notice of case closure by entering a narrative line, or lines, on the child support computer system and will include the date of the notice;

(b) SED or the DA must keep the case open if, in response to the notice, the custodial parent, or applicant for services:

(A) Supplies information which could lead to the establishment of paternity or of a support order, or enforcement of an order; or

(B) Re-establishes contact with SED or the DA, in cases where SED or the DA proposed to close the case under

subsection (1)(j) of this rule.

(c) The custodial parent, or applicant for services, may request at a later date that the case be reopened if there is a change in circumstances that could lead to the establishment of paternity or a support order, or enforcement of an order.

(3) SED and the DA will document the justification for case closure by entering a narrative line or lines on the child support computer system in sufficient detail to communicate the basis for the case closure.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Adult and Family Services Division.]

Stat. Auth.: ORS 25.080, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 35-1986(Temp), f. & ef. 4-14-86; AFS 66-1986, f. & ef. 9-19-86; AFS 27-1988, f. & cert. ef. 4-5-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-055; AFS 15-1993, f. 8-13-93, cert. ef. 8-15-93

461-195-0055

Continuation of Service

(1) When a family's public assistance grant is closed, support enforcement services shall automatically be continued after grant closure. The Support Enforcement Division (SED) of the Department of Justice shall provide enforcement services for the first five months after grant closure and thereafter for as long as assigned arrearages are unpaid. The AFS Child Support Unit (CSU) shall notify the support obligee, in writing, of the services to be provided. CSU will send this notice in the month following the grant closure:

(a) An obligee may at any time request that support enforcement services no longer be provided. If the obligee so requests, all enforcement services on behalf of the obligee shall be discontinued. However, SED shall continue enforcement efforts to collect past due support owed to the state. CSU shall apply any collections received against the amount owed the state until this amount has been collected;

(b) An obligee may at any time direct, in writing, that CSU retain all current support monies payable to the obligee to retire the state's share of past due support. CSU shall comply upon receiving such direction in writing from the obligee;

(c) An obligee may also request under section (3) of this rule that enforcement services no longer be provided for either the obligee or the state.

(2) At the end of the five month period following grant closure and at any time thereafter, if there is no past due support owed to the state, the district attorney shall provide enforcement services until or unless the obligee requests that enforcement activities be discontinued.

(3) If an obligee believes that there is good cause to expect that physical or emotional harm to the family may result if enforcement services are provided, the obligee may request that SED or the district attorney discontinue all enforcement activity against the obligor:

(a) If no past due support is owed to the state, SED or the district attorney will immediately discontinue all enforcement activity on the case;

(b) If past due support is owed to the state, SED or the district attorney shall immediately suspend all enforcement activity on the case and refer the case to AFS. In such cases:

(A) AFS shall investigate the good cause claim and determine if good cause does exist;

- (B) No support enforcement action shall take place until AFS notifies SED or the district attorney that the good cause investigation is completed and enforcement may resume;
- (C) If AFS finds that good cause does not exist, AFS shall notify both the obligee and SED or the district attorney. SED or the district attorney shall then resume enforcement activity;
- (D) If AFS finds that good cause does exist, AFS shall notify both the obligee and SED or the district attorney. SED or the district attorney shall then close the enforcement case.

Stat. Auth.: ORS Ch. 183, 184 & 411

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 34-1986(Temp), f. & ef. 4-14-86; AFS 65-1986, f. & ef. 9-19-86; AFS 28-1988, f. & cert. ef. 4-5-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-054

461-195-0060

Enforcing Health Insurance and Medical Support Orders

- (1) Where an obligor is required by judicial or administrative order to provide health insurance coverage for the child(ren), the enforcement entity shall enforce the health insurance provisions under the provisions of this rule. For the purpose of this rule, the following definitions apply:
 - (a) "ERISA employer" means an employer, or an employee organization, who provides a group health plan as defined by **Section 607(1) of the Employee Retirement Income Security Act of 1974**;
 - (b) "Non-ERISA employer" means an employer, or an employee organization, involved in a group health plan other than a group health plan as defined by **Section 607(1) of the Employee Retirement Income Security Act of 1974**.
- (2) The enforcing entity shall contact the employer to determine if the obligor is complying with the medical support provisions of the order and if not, will determine whether the employer is an ERISA employer or a non-ERISA employer.
- (3) If the obligor's employer is an ERISA employer and the obligor is enrolled and family coverage is available but the child(ren) is not enrolled, the enforcement entity shall obtain a Medical Child Support Order pursuant to **Section 609 of the Employee Retirement Income Security Act of 1974** and serve it on the Plan Administrator without further notice. Sections (4) through (6) of this rule shall not apply to enforcement actions if the employer is an ERISA employer.
- (4) If the obligor's employer is a non-ERISA employer and the obligor is enrolled and family health coverage is available but the child(ren) is not enrolled, the enforcing entity shall mail notice to the obligor. The notice shall include the requirements of ORS 25.255(4). The obligor has 30 days to provide proof that the child(ren) is enrolled or that application to enroll the child(ren) has been made.
- (5) If the obligor fails to provide written proof under Section 4 of this rule, the enforcing entity will serve a notice-order on the obligor's employer to provide health coverage as authorized by ORS 25.255.
- (6) The notice-order shall require the employer to:
 - (a) Enroll the dependent children as beneficiaries provided the obligor is enrolled in a plan providing for family health coverage;
 - (b) Enroll the obligee as a beneficiary, if health coverage is available at no additional cost to the obligor;

- (c) Withhold any required premium from the obligor's income or wages;
- (d) Complete and return the "Acceptance of Service".

Stat. Auth.: ORS 25.255, 409.020, 411.60, and Ch. 506 Oregon Laws 1995

Stats. Implemented: Ch. 506 Oregon Laws 1995

Hist.: AFS 10-1990, f. 3-14-90, cert. ef. 4-1-90; AFS 25-1995, f. 10-12-95, cert. ef. 10-15-95

461-195-0062

Medical Support Establishment

(1) In any action to establish or modify an Oregon child support order, the entity responsible for support enforcement services pursuant to ORS 25.080 shall petition for an order providing for health insurance for the child(ren) included in the order, unless the obligee or assignee of the support rights elects not to have the insurance.

(2) The petition, contested case notice or motion shall, to the extent reasonably possible, accurately state the amount of child support presumed correct under the formula established by ORS 25.275. When health insurance provisions are included, it shall also state the amount by which the order is to be increased or decreased under the formula established by ORS 25.275, in accordance with ORS 25.255, in consideration of the parties' pro rata share of liability for the out-of-pocket costs of health insurance for the children if information is available about the actual costs of health insurance. Out-of-pocket costs mean the costs incurred by the parties for health insurance for the benefit of the child(ren) included in the order.

(3) The proration adjustment for health insurance shall be based only on the cost of enrolling the child(ren) included in the order, in a health insurance plan, and shall not include any additional insurance premium cost incurred by either the obligor or the obligee for his/her own health insurance coverage or coverage for other dependents, even if the party cannot cover the child(ren) included in the order without purchasing coverage for himself/herself or for additional family members.

(4) If the entity responsible for support enforcement services has no information regarding the availability and cost of insurance, the petition, contested case notice, or motion shall include:

- (a) An amount to be paid as child support; and
- (b) Subject to an election as provided in ORS 25.255(1), a statement that insurance is to be provided by the obligor when available on a group basis or through an employer or union, at a cost not to exceed the amount of child support calculated pursuant to the formula established in ORS 25.275. Credit shall be computed only if the child(ren) is enrolled and the party to provide health insurance provides proof of the costs of such health insurance prior to entry of the final order.
- (5) To ensure that the information necessary to calculate an appropriate order is made available to the court, Administrator, or hearing officer, the entity responsible for support enforcement services shall, at a minimum, take the following actions:
 - (a) Attempt to contact the obligor or obligee, or any current employer of the obligor or obligee to verify earnings. Attempt to verify the availability and cost of health insurance for the child(ren) included in the order; and
 - (b) Submit with the petition, contested case notice, or motion served on the parties, a document designed to obtain information regarding the income, availability of health insurance for the child(ren) included in the order, and other factors which may affect the amount of child support ordered. The document shall include:

(A) A notice to any obligee who has not assigned child support or medical support to the state that health insurance may be ordered, but the health insurance coverage is the obligee's election. The notice shall further state that if elected by the obligee, the order will be decreased by a pro rata share if the obligor provides insurance, or increase by a pro rata share if the obligee provides insurance subject to the limitation pursuant to ORS 25.255;

(B) A notice stating that when child support or medical support is assigned, that unless the obligee and child(ren) already have health insurance coverage other than Medicaid, the enforcing entity will seek an order requiring the obligor to provide health insurance, and that the order entered will reflect any known out-of-pocket costs to the obligor by reducing the amount of the order by the obligee's pro rata share of the obligor's out-of-pocket cost of enrolling the child(ren) included in the order in a health insurance plan;

(C) A notice stating that credit shall be computed only if the child(ren) is enrolled and if the party to provide health insurance provides proof of the cost of such health insurance prior to entry of the final order;

(D) On all petitions, motions, or contested case notices issued on or after March 1, 1995, a notice stating that if the party to provide health insurance does not have health insurance available on a group basis or through an employer or union at the time of the final order, the party may apply for a modification under the provisions of OAR 461-195-0072 if the child(ren) is subsequently enrolled and proof of the costs of such insurance are provided to the enforcement entity.

(6) When neither party has responded to service of the petition, contested case notice, or motion and the entity responsible for support enforcement services does not have current information regarding the availability and cost of health insurance, or the party to provide health insurance does not have health insurance available on group basis or through the employer or union, or if the party to provide insurance fails to provide proof of the cost of insurance and that the child(ren) are enrolled, the entity may enter an order which:

(a) States that the party must provide insurance at any such time as it is available on a group basis or through an employer or union, at a cost not to exceed the amount of child support calculated pursuant to the formula established in ORS 25.275; and,

(b) Provides for the payment of an amount of child support that has not been adjusted to reflect the cost of insurance.

Stat. Auth.: ORS 25.255, 409.020, 411.60, and Ch. 506 Oregon Laws 1995

Stats. Implemented: Ch. 506 Oregon Laws 1995

Hist.: AFS 25-1993, f. 10-27-93, cert. ef. 11-4-93; AFS 28-1994, f. & cert. ef. 12-14-94; AFS 25-1995, f. 10-12-95, cert. ef. 10-15-95

461-195-0063

Medical Child Support Order - Type of Coverage

This rule applies when a medical child support order is required under Section 609 of the Employee Retirement Income Security Act to enforce the medical support provisions of a support order.

(1) The enforcement entity drafting the medical child support order must either provide a reasonable description of the type of coverage to be provided or describe the manner in which such type of coverage shall be determined by the plan administrator. To provide consistency in services, enforcement entities shall use the following criteria to describe the manner in which the type of coverage is to be determined by the plan administrator:

(a) If the obligor is enrolled in a plan option that provides for family coverage, the plan administrator shall enroll the alternate recipient(s) in that plan;

(b) If the obligor is not enrolled in a plan option that provides family health coverage, the obligor shall select a plan option that provides family health coverage;

(c) If the obligor is not enrolled in a plan option providing family health coverage or does not select a plan option providing family health coverage within a reasonable amount of time as defined by the plan administrator, the plan administrator shall enroll the alternate recipient(s) in the plan option offering family health coverage which is least costly to the obligor.

(2) Nothing in this rule precludes a party from petitioning the court to modify the underlying order to specify a method for determining the type of health coverage to be provided that differs from the criteria specified in section (1) of this rule.

Stat. Auth.: ORS 25.080, 409.020, 411.60, and Ch. 506 Oregon Laws 1995

Stats. Implemented: Ch. 506 Oregon Laws 1995

Hist.: AFS 38-1995, f. 12-4-95, cert. ef. 12-15-95

461-195-0065

"Party Status" in Court and Administrative Proceedings

(1) In any proceeding to establish, modify or enforce a paternity or support obligation initiated by an Oregon enforcing agency (as defined in OAR 461-195-0001), the enforcing agency represents only the interests of the state.

(2) In any action taken under ORS 25.080, the state of Oregon, the obligor, and the obligee are parties.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Adult and Family Services Division.]

Stat. Auth.: ORS 108.110(5), 109.015, 109.100(4), 109.125(4), 109.264, 110.281(4), 409.020, 409.050, 411.060, 416.407, 416.427(8) & 416.427(7)

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 23-1992, f. 8-14-92, cert. ef. 9-1-92; AFS 3-1994, f. & cert. ef. 2-1-94; AFS 18-1994, f. 8-25-94, cert. ef. 9-1-94

461-195-0068

Responsibility of Enforcing Agency to Establish Paternity at Request of Self-Alleged Father

(1) For purposes of this rule, self-alleged father means a man who both:

- (a) Claims that he is the biological father of a child born out of wedlock as defined in ORS 109.124; and
- (b) Wishes to have paternity legally established for the child, establishing himself as the legal father.

(2) The appropriate enforcing agency, as defined in OAR 461-195-0001, shall be responsible for pursuing establishment of paternity at the request of a self-alleged father, subject to all of the following:

(a) The self-alleged father must either:

- (A) Be eligible for services under Title IV-D of the Social Security Act, because he is receiving ADC or Medicaid assistance for the child born out of wedlock; or
- (B) Complete an application for services as provided under Title IV-D of the Social Security Act.

(b) Unless otherwise prohibited under this rule, the enforcing agency shall:

- (A) Take all appropriate steps to determine if the self-alleged father is the true biological father; and
- (B) Pursue appropriate action to legally establish paternity unless evidence indicates that he is not the biological father.
- (c) The enforcing agency shall not pursue action to establish paternity under this section in any case where adoption of the child is final or where legal paternity, as specified in ORS 109.070, has already been established for the child.
- (d) The enforcing agency shall not pursue action to establish paternity under this rule if the Department of Human Resources (DHR) has determined that such action would not be in the best interests of the child, in accordance with section (5) of this rule.
- (3) For purposes of this rule, legal proceedings for adoption of the child are pending if either of the following provisions is true:
 - (a) The mother or legal guardian of the child has released or surrendered the child to the adoptive parent(s) for adoption, and such release or surrender has become irrevocable because the child has been placed in the physical custody of the adoptive parent(s) and the other conditions of ORS 109.312 have been
 - (b) The mother or legal guardian of the child has released or surrendered the child to the State Office for Services to Children and Families (SOSCF) or an incorporated child-caring agency for adoption, and such release or surrender has become irrevocable because the child has been placed by the agency in the physical custody of a person or persons for the purpose of adoption, in accordance with ORS 418.270(4).
- (4)(a) When a self-alleged father requests an enforcing agency to establish his legal paternity for a child, the enforcing agency shall send written notification by first class mail to the last-known address of the mother and (if a separate party) legal guardian of the child. This notification shall be by a form or form letter prescribed by DHR. Further, if the enforcing agency knows or is informed that legal proceedings for adoption of the child are pending, the enforcing agency shall also send written notification to the licensed private agency handling the adoption, or if none exists, to SOSCF;
- (b) If the mother and (if a separate party) legal guardian cannot readily be found, the enforcing agency shall make a diligent attempt to locate the party. A diligent attempt includes but is not limited to submitting the case to the Central Operations Section of the Support Enforcement Division for state parent locator services. If unable to locate the mother and legal guardian within 30 days, the enforcing agency shall proceed to process the case as described in section (8) of this rule without the notice described in this section;
- (c) The written notification shall state the following:
 - (A) That the self-alleged father has asked the enforcing agency for establishment of paternity services.;
 - (B) That if legal proceedings for adoption of the child are pending, or if the child's mother (or legal guardian if a separate party) alleges that the child was conceived due to rape or incest, DHR will determine whether establishing paternity is in the best interests of the child, on the basis of the responses DHR receives to the written notification;
 - (C) That a copy of any response to the notification DHR receives will be sent to the self-alleged father, and that the self-alleged father will then have an opportunity to respond to the allegations. The enforcing agency shall ensure that the obligee's address is deleted from any written material it sends to the self-alleged father;
 - (D) The factors DHR will consider, set out in section (5) of this rule, in determining whether establishing paternity would be in the best interest of the child;
 - (E) That the mother, legal guardian, and adoption agency or SOSCF if appropriate under this rule, has 15 days to respond in writing to the written notification;
 - (F) That the self-alleged father has 15 days to respond to an allegation or response received by DHR;

- (G) That if any of the parties listed in paragraph (D) or (E) of this subsection does not respond to the written notice or allegation within 15 days, DHR shall make its determination based on the responses it does receive;
- (H) That if DHR determines that establishing paternity would not be in the best interests of the child, this decision:
 - (i) Means only that the enforcing agency will not pursue action to establish paternity under Title IV-D of the Social Security Act; and
 - (ii) Does not preclude the self-alleged father from pursuing establishment of paternity on his own, without the assistance of the enforcing agency.
- (5) In any case where legal proceedings for adoption of the child are pending, or where the child was conceived due to alleged rape or incest, DHR shall be responsible for determining whether action to establish paternity would be in the best interests of the child.
 - (a) If DHR determines that action to establish paternity would not be in the best interests of the child, the enforcing agency shall take no further action to establish paternity for the self-alleged father under Title IV-D of the Social Security Act.
 - (b) A signed written statement from the mother or legal guardian of the child, stating that the child was conceived as a result of rape or incest, shall be sufficient reason for DHR to determine that establishing paternity would not be in the best interests of the child, unless such statement is disputed or denied by the self-alleged father, subject to the following:
 - (A) If the self-alleged father does not respond to the copy of the allegation or response DHR receives as provided in section (4) of this rule, DHR shall make its determination by default based on the mother's or legal guardian's statement.
 - (B) If the self-alleged father does respond and acknowledges that the child was conceived by rape or incest, DHR shall determine that establishing paternity would not be in the best interests of the child.
 - (C) If the self-alleged father does respond and denies that the child was conceived by rape or incest, DHR shall make an administrative decision regarding whether or not the enforcing agency shall pursue action to establish paternity under Title IV-D of the Social Security Act. DHR shall consider factors including, but not limited to:
 - (i) Whether a police report was filed.
 - (ii) Whether the self-alleged father was convicted or acquitted of rape or incest charges.
 - (iii) Whether other persons have information that the child was conceived due to rape or incest.
 - (iv) Any other factors known or provided to DHR that would support or refute the veracity of the rape or incest allegation.
 - (v) Whether establishing paternity would be in the best interest of the child, considering the factors listed in subsection (c) of this section.
 - (vi) DHR's decision in this matter shall be limited to only whether the enforcing agency shall pursue action to establish paternity under Title IV-D of the Social Security Act, and shall in no way be construed or intended as a determination or accusation of whether the self-alleged father is in fact guilty or not guilty of rape or incest.
 - (c) When DHR finds that legal proceedings for adoption of the child are pending, DHR shall consider the following factors in determining whether establishing paternity would be in the best interests of the child:
 - (A) The nature of the relationship or contacts between the child and the self-alleged father. This determination may consider whether the child has lived with the self-alleged father or has had frequent visitation with the self-alleged father, thereby establishing a substantial parent-child relationship;

- (B) The degree of parental commitment by the self-alleged father to the child. This determination may consider whether the self-alleged father has attempted to stay in contact with the child, and if such attempts would continue or increase in the future;
- (C) The degree to which the self-alleged father has contributed or attempted to contribute, consistent with his ability, to the support of the child. This determination may consider the nature and extent of such support, and if such support would continue or increase in the future;
- (D) If there is a legal relationship between the child and the self-alleged father, or if there has been an attempt to establish such a legal relationship through filiation proceedings, custody actions, voluntary acknowledgement of paternity, or similar actions. This determination may consider whether the self-alleged father has had an opportunity to establish a legal relationship prior to the initiation of adoption proceedings;
- (E) Whether good reasons exist that would excuse the self-alleged father's failure to establish a relationship, or stay in contact with the child, or contribute to the support of the child, or attempt to establish a legal relationship with the child. Such reasons may include, but are not limited to, the self-alleged father's late awareness of the mother's pregnancy or of the child's birth.
- (6) Absent judicial review, the decision of DHR shall be final with regard to any responsibility of the enforcing agency to pursue establishment of paternity under Title IV-D of the Social Security Act.
- (7) No provision of this rule shall be construed as prohibiting the self-alleged father from pursuing establishing paternity on his own, without the assistance of an enforcing agency operating under Title IV-D of the Social Security Act.
- (8) If DHR determines (when a determination by DHR is necessary under this rule) that the enforcing agency may pursue action to establish paternity at the request of a self-alleged father, or if neither DHR nor the enforcing agency receives a written assertion requiring such a determination by DHR under this rule, the enforcing agency shall proceed on the case as follows:
- (a) The enforcing agency shall make diligent efforts to provide the mother of the child, unless she is deceased, with actual notice of the action to establish paternity. Notice shall be by personal service upon the mother. Diligent efforts shall include mailing of the notice or petition and summons by first class mail to all reasonably known recent addresses of record with a request that the mother acknowledge service on the form provided and also mailing the same notice to one or more of the maternal grandparents, if known, addressed to them individually and requesting that they forward the notice and acknowledgment form to the mother;
- (b) Notwithstanding the requirement of subsection (a) of this section, no action to establish paternity under this section shall be delayed more than 60 days from the self-alleged father's initial request because of the enforcing agency's inability to provide actual notice to the mother of the child or children;
- (c) If the mother of the child or children cannot be served with notice of the action or if the mother is deceased, the enforcing agency shall take no order establishing paternity without genetic tests which fail to exclude the self-alleged father, and with a cumulative paternity index of at least 99;
- (d) In any action to establish paternity in which the enforcing agency cannot serve the child's mother, or when the mother is deceased, the enforcing agency shall request that the court appoint a willing, qualified and suitable person to be a guardian ad litem for the child. If no relative or other person agrees to such appointment, the enforcing agency shall request that an attorney be appointed for this purpose;
- (e) When an order establishing paternity has been taken in accordance with this section without service of the notice or petition and summons on the mother, the enforcing agency shall mail a copy of the final order to the mother by first class mail to the most recent addresses of record in the enforcing agency files, the Adult and Family Services Division files and Motor Vehicles Division files marked please forward, address correction requested. In addition to such mailing, the enforcing agency shall for a period of six months from the date of the final order, continue attempts to

locate the mother and personally serve her with a copy of the final order establishing paternity.

Stat. Auth.: ORS 25.080, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 23-1993, f. & cert. ef. 10-19-93; AFS 3-1994, f. & cert. ef. 2-1-94; AFS 12-1996, f. & cert. ef. 4-1-96

461-195-0072

Periodic Review and Modification and Substantial Change in Circumstance Modifications of Child Support Awards Rule

(1) For the purposes of this rule, the following definitions shall apply:

(a) "Enforcing Agency" means the entity that is responsible under ORS 25.080 for providing support enforcement services on any given case. This entity is either the Support Enforcement Division (SED) or the district attorney for an Oregon county;

(b) "Guidelines" refers to the guidelines, the formula, and related provisions in OAR 137-050-0320 through 137-050-0490;

(c) "Review" means an objective evaluation by the enforcing agency of the information necessary for application of the guidelines to determine:

(A) The presumptively correct child support award amount; and

(B) The need to provide in the order for the child's health care needs through health insurance coverage or other means, not to include Title XIX benefits, regardless of whether an adjustment in the amount of child support is necessary.

(d) "Determination" means an order which finds that the current order of support is in substantial compliance with the Oregon guidelines;

(e) "Substantial Compliance" means that the current support order and the amount as calculated using the guidelines, are identical, to within a dollar.

(2) For all child support cases being enforced under Title IV-D of the Social Security Act, DHR shall notify the obligor and obligee of their right to request a review of the amount of support ordered. Such notification may be in the form of a one-time notice.

(3) Such review shall consist of seeking information from all parties and from searching computerized records and other sources as appropriate.

(4) The purpose of such review is to determine whether or not the current child support award amount on any case should be modified to assure substantial compliance with Oregon's child support guidelines.

(5) The entity responsible for conducting a review in this state or for requesting that another state conduct a review, is the Oregon enforcing agency, as defined under subsection (1)(a) of this rule. The enforcing agency may use a court or administrative hearing process or discovery process in conducting the review, when necessary to obtain adequate evidence or sworn testimony from any party in order to complete the review.

(6) Effective October 13, 1993, on any child support case being enforced under Title IV-D of the Social Security Act, the enforcing agency shall initiate a review no sooner than 24 months, but no later than 36 months after the existing support order was established or most recently modified, or was most recently reviewed, unless:

(a) There is a current assignment of support rights and the IV-A or IV-E agency has determined that a review would not be in the best interests of the child, which is defined as "good cause" in accordance with 45 CFR 302.31(c) and 45 CFR 232.40 through 232.49 or 42 CFR 433.147(c); and, neither parent has requested a review; or

(b) There is no assignment of current support rights to the state and neither parent has requested a review; or

(c) Medical support rights are currently assigned to the state, but child support rights are not assigned to the state; the current order of support provides health insurance coverage; and, neither parent has requested a review.

(7) Within 15 calendar days of a party's request for review and adjustment or the state's identification of the need to review and adjust the order without a party's request, the enforcing agency shall determine in which state a review and adjustment will be sought:

(a) If the currently enforced support order is an Oregon support order, the Oregon enforcing agency shall initiate review and adjustment of the Oregon order even if neither party resides in Oregon. The enforcing agency shall use out-of-state service as appropriate;

(b) If the currently enforced support order is another state's order, the Oregon enforcing agency shall initiate a request for review and adjustment to the other state pursuant to the provisions at subsection (9)(a) of this rule;

(c) When Oregon is responding to a request from another state to initiate a review, Oregon's child support guidelines and procedures for review and adjustment shall apply.

(8) The enforcing agency shall complete the review and determination that the order is in compliance with the guidelines or complete the modification of the existing order within 180 calendar days of determining that a review should be conducted, or locating the non-requesting parent, if necessary, whichever occurs later.

(9) For interstate review and adjustments:

(a) When the enforcing agency determines that the reviewing state is not Oregon, it shall proceed to:

(A) Determine and obtain the information needed by the reviewing state to permit review; and

(B) Complete the federal, standardized interstate transmittal form; and

(C) Transmit the documents in paragraphs (A) and (B) of this subsection within 20 calendar days of receipt of those documents to the reviewing state along with a request for review and adjustment;

(D) If the reviewing state is currently providing interstate services for Oregon on this case, the documents shall be transmitted to the local office or agency working the case;

(E) If the request for review and adjustment is the first contact with the reviewing state on this case, the request for review must be sent to the interstate central registry in the reviewing state.

(b) Notwithstanding the provisions of subsection (9)(a) of this rule, when Oregon is the state designated by the initiating state as the reviewing state, and the requirements for modification pursuant to the Uniform Interstate Family Support Act (UIFSA), specifically ORS 110.333, 110.426, 110.429 and 110.432 are met, the Oregon enforcing agency shall proceed to conduct the review without regard to whether or not the currently enforced order is an Oregon order.

(10) At least 30 days prior to any periodic review, the enforcing agency shall notify the obligee and obligor of the review in writing:

(a) The notice shall advise the obligor and obligee of the opportunity to provide information, with regard to themselves and the other party if known, which might affect the enforcing agency's calculation of the presumed correct support amount under the child support guidelines (OAR 137-050-0320 to 137-050-0490), and that each party has 30 days from

the date of the notice to provide such information in writing to the enforcing agency;

(b) The enforcing agency shall consider written information received from any party prior to calculating the presumed correct amount of support;

(c) The enforcing agency shall not calculate a presumed correct support amount until 30 days has elapsed since the date of the initial notice;

(d) The notice shall inform the parties that a modification to the support amount shall effect only support owing on or after the date of filing of the motion or determination.

(11) The enforcing agency shall notify the obligor and obligee in writing, of the presumed correct support amount under the child support guidelines (OAR 137-050-0320 to 137-050-0490). This notification:

(a) May be by service of a proposed determination that the existing order is in compliance with the guidelines, or a motion or petition to modify the current support order, pursuant to applicable statutes and/or administrative rules; and

(b) Shall advise both the obligor and obligee that each party has 30 days from the date of service of the notice to object to the determination or proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has elapsed;

(c) If the enforcing agency uses an administrative motion or determination form, the enforcing agency shall include the request for hearing form for each of the parties.

(12) If a party wishes to object to the proposed modification or determination:

(a) The party shall file a written request for hearing with the enforcing agency or court before the 30 day period has elapsed;

(b) Upon receipt of a written request for hearing opposing the proposed modification or determination, the enforcing agency shall:

(A) Review the case to determine whether an error was made in applying the guidelines or computing the support amount, and if so, notify both parties of the new presumed amount; or

(B) Seek a stipulated order; or

(C) Ensure that the matter is set for hearing if no other resolution is achieved.

(13) If no request for hearing is filed within the 30 day period, the enforcing agency shall docket or file the appropriate modification or determination of the support order.

(14) For purposes of initiating a motion for modification based upon a substantial change of circumstances:

(a) The enforcing agency shall initiate a motion for modification when the following criteria are met:

(A) The requesting person is a party to the Oregon support order; and

(B) The existing order of support was entered not less than 60 days and not more than 22 months from the date of the request; and

(C) A change in the physical custody of the child(ren) has taken place; or

(D) The financial circumstances of one or more of the parties are different now than they were at the time the order was entered; or

- (E) The obligated parent has been incarcerated after the current order was entered; or
- (F) The needs of the child have changed.
- (b) The requesting party shall provide documentation to support the request as follows:
 - (A) A completed request for modification based upon a change of circumstances;
 - (B) A completed Uniform Income Statement or Uniform Support Affidavit; and
 - (C) Verification of income as required by OAR 137-050-0370, for both the time the support order was entered and the present time;
 - (D) Proof that the obligated parent is incarcerated.
- (c) The same time frames as set forth in this rule for initiation and completion of periodic review and modification of orders shall apply for substantial change in circumstance review and modifications.
- (d) If the criteria in subsection (14)(a) and/or (b) of this rule have not been met, the enforcing agency shall notify the requesting party in writing within 30 days that:
 - (A) The enforcing agency denies the request for the filing of a motion for modification; and
 - (B) That the party may use a pro se motion for modification as provided for in ORS 416.425. The enforcing agency shall attach the form adopted by the Administrator for this purpose.
- (15) No provision of this rule shall preclude the obligee or obligor from utilizing the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

Stat. Auth.: ORS 25.287, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 65-1989, f. 10-31-89, cert. ef. 11-1-89; AFS 11-1992(Temp), f. & cert. ef. 4-30-92; AFS 26-1992, f. & cert. ef. 9-30-92; AFS 20-1993, f. 10-11-93, cert. ef. 10-13-93; AFS 21-1994, f. 9-13-94, cert. ef. 12-1-94; AFS 17-1997(Temp), f. & cert. ef. 9-16-97

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

461-195-0074

District Attorney Case Assignment for Modifications

- (1) The purpose of this rule is to provide criteria for determining which Oregon District Attorney shall have responsibility for initiating action to review and modify an Oregon court order or decree, or administrative order, requiring payment of child support. This rule applies only when both of the following conditions exist:
 - (a) An Oregon District Attorney has responsibility for providing support enforcement services under ORS 25.080 and Title IV-D of the Social Security Act; and
 - (b) Either of the following is true:
 - (A) The obligor or obligee has requested a review and modification, as provided in OAR 461-195-0072, for purposes of changing the amount of the monthly support obligation; or
 - (B) The obligor is presumed entitled to a modification of the support obligation as a recipient of public assistance, as

provided in ORS 25.245.

(2) For purposes of this rule, the following definitions apply:

(a) "Requesting Party" means the party requesting the district attorney to review and modify the support obligation:

(A) The requesting party may be either the obligor or the obligee;

(B) An obligor deemed presumptively eligible for a modification under ORS 25.245 shall be considered the "requesting party".

(b) "Non-Requesting Party" means whichever party, either the obligor or the obligee, that is not the requesting party as defined in subsection (2)(a) of this rule.

(3) In any case where there is an arrearage, the district attorney responsible under OAR 461-195-0040 for enforcing the case shall, if the order is in another Oregon county, transfer in the order for review and modification under ORS 25.100(a).

(4) In any case where there is no arrearage:

(a) If both the obligor and obligee reside in the same Oregon county, but the order is in another county:

(A) The district attorney for the county of residence of the obligor and obligee shall be responsible for review and modification action;

(B) The district attorney for the county of residence may transfer the order in for review and modification under ORS 25.100(b), as the county of residence for the non-requesting party.

(b) If either the obligor or obligee reside in the same Oregon county that is the county of the order, the district attorney for that county shall be responsible for review and modification action;

(c) If the order, the requesting party, and the non-requesting party are all in different counties:

(A) If the district attorney for the county of the requesting party has previously transferred the order to the requesting party's county for enforcement, the district attorney for the enforcing county shall be responsible for review and modification action;

(B) If the case is not currently open as an enforcement case under ORS 25.080, or if the district attorney for the requesting party's county has never transferred the order for enforcement:

(i) That district attorney shall refer the requesting party to the district attorney for the county of the order;

(ii) The district attorney for the county of the order shall then be responsible for review and modification action.

(C) If the case is currently open as an enforcement case under ORS 25.080:

(i) The district attorney for the enforcing county shall transfer the enforcement case to the district attorney for the county of the order;

(ii) The district attorney for the county of the order shall then be responsible for review and modification action;

(iii) Once the review and modification is completed, the district attorney for the county of the order shall transfer the enforcement case back to the proper enforcement county under OAR 461-195-0040.

(5) If the requesting party does not reside in Oregon, and regardless of whether the case has arrearages or not:

- (a) If the requesting party's support case is already being enforced under the IV-D program in another state, the Oregon district attorney, DHR Child Support Program, or Support Enforcement Division shall advise the requesting party to direct the request to the enforcing IV-D agency in that other state. That IV-D agency may then ask the Oregon IV-D program to pursue action under appropriate state and federal statutes;
- (b) If the requesting party's support case is not being enforced under the IV-D program in another state, the Oregon enforcing agency shall handle the request under sections (3) and (4) of this rule.
- (6) If the non-requesting party does not reside in Oregon, the district attorney shall handle the request under sections (3) and (4) of this rule.
- (7) The Matrix set out in **Table 2**, is included in this rule as an aid, and incorporates preceding sections of this rule:

TABLE 2

DA CASE ASSIGNMENTCHART FOR MODIFICATIONS

Requesting Party	Non-Requesting Party	County of Oregon	Responsible DA For
County of Residence	County of Residence	Support Order	Review and Modification
A A A	A		
B A A	A		
B B A	B		
A B A	A		
C B A C (or A; see note)			

NOTE: County C shall keep the case if there is an arrearage amount or if the case has already been transferred in for enforcement. County A is responsible if County C cannot transfer the case in. County C shall fill out and send a notice of transfer letter to County A.

(8) All functions and responsibilities assigned to Oregon district attorneys under this rule shall also be considered assigned to the Support Enforcement Division, for those counties where SED has assumed responsibility from the district attorney for providing support enforcement services.

Stat. Auth.: ORS 25.287409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 33-1992, f. 11-17-92, cert. ef. 12-1-92

461-195-0076

Order to Produce

- (1) In any proceeding to establish or modify a support order, the Administrator of the Support Enforcement Division may issue an order to produce financial documents. The order may be served on the parties along with the notice and finding of financial responsibility or motion for modification, or it may be served later by itself by regular mail.
- (2) The provisions of this rule apply only when no request for hearing has been received by the division. If a request for

hearing has been received by the division, the provisions of OAR 461-195-0860 apply.

Stat. Auth.: ORS 183.425, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 13-1996, f. 4-15-96, cert. ef. 5-1-96

461-195-0080

Accrual and Due Dates for Billing Purposes

This rule applies to any court order or administrative order requiring the payment of child support, or child and spousal support:

(1) Unless the order specifies otherwise, the AFS Child Support Unit (CSU) will deem each support payment due under the order to be a final judgment, effective on the due date indicated in the order.

(2) When an order does not specify the date payments are to begin, CSU shall deem the first payment to be due on the last day of the month in which the order was signed, and shall deem the amount owed to be a judgment effective on that day. CSP shall deem the payment owed for each subsequent month to be due, and to be a judgment, effective on the last day of each month, unless the order provides otherwise.

(3)When the support obligation terminates during any month, CSU shall not pro-rate the support obligation for the month, unless the order for support provides otherwise. In any month:

(a) If the support obligation terminates on or before the due date for the month, CSP shall deem no amount to be due for that month;

(b) If the support obligation terminates after the due date for the month, CSP shall deem the entire monthly support amount to be due for that month;

(c) If the order specifies that payments are due on a basis other than monthly, such as weekly, bi-weekly, or semi-monthly, the provisions of subsections (a) and (b) of this section shall apply to the specified payment period rather than monthly.

Stat. Auth.: ORS 25.020, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 15-1988, f. & cert. ef. 2-24-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-040; AFS 31-1992, f. 10-29-92, cert. ef. 11-1-92

461-195-0105

Delinquency Notices for Past-Due Support Payments

(1) When the AFS Child Support Unit (CSU) determines that a support payment is delinquent, CSU will file notice of that delinquency as follows:

(a) CSU will send one delinquency notice to the obligor for the first month delinquent;

(b) CSU will mail monthly billing notices for an additional five month period. If no response or payment is obtained,

CSU will suspend regular mail billing;

(c) When CSU has suspended regular monthly mail billing, CSU will mail a year-end billing notice to the obligor.

(2) If payment is not made when due, CSU shall send a statement of the delinquent amount to the district attorney or to the Support Enforcement Division of the Department of Justice. The district attorney or the Support Enforcement Division may initiate contempt proceedings or other enforcement action against the obligor, or shall initiate such action when requested by the obligee. A statement of the amount due may be used in lieu of an affidavit of arrearages.

Stat. Auth.: ORS 25.020, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 21-1978, f. & ef. 5-30-78; AFS 88-1980, f. & ef. 12-10-80; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-001

461-195-0120

Obligor Receiving Cash Assistance, Presumed Unable to Pay Child Support

(1) The purpose of this rule is to outline the responsibilities of the Department of Human Resources (DHR), the District Attorneys (DA), and the Support Enforcement Division (SED) of the Department of Justice, relating to suspension of child support when an obligor is presumed unable to pay child support because the obligor is eligible for and receiving cash assistance. For the purposes of this rule, hearing officer means an Employment Department hearing officer under ORS 416.427. This rule applies to any support payment due on or after January 1, 1994.

(2) DHR will be responsible for the following:

(a) DHR will identify obligors in IV-D cases receiving cash assistance in any of the following programs by means of a computer match between the DHR child support system and the client maintenance system:

(A) Title IV-A cash assistance;

(B) General Assistance cash assistance;

(C) Oregon Supplemental Security Income Program cash assistance;

(D) Supplemental Security Income Program payments by the Social Security Administration.

(b) Obligor in IV-D cases who are eligible for and receiving cash assistance will be referred by DHR to the appropriate enforcement entity for follow-up action by the following means:

(A) The child support case will be moved in the Child Support Computer matrix to Function 7, Priority 4, if there is a child support order on the case;

(B) The child support case will be moved in the Child Support Computer matrix to Function 7, Priority 1, if there is no child support order on the case.

(c) DHR will narrate the case with the narrative "O on PA as of (date)", and will suspend accrual and billing for the period the obligor receives cash assistance under paragraphs (2)(a)(A) through (D).

(3) The District Attorneys, or the Support Enforcement Division, whichever entity is assigned responsibility of providing enforcement services shall be responsible for the following:

(a) Reviewing the Child Support Computer matrix on a daily basis for new cases appearing in Function 7, Priority 4;

(b) When a new case appears in Function 7, Priority 4, the enforcement entity must send a notice to all parties to the support order within 30 days. The notice will contain a statement of presumption and include the following:

(A) A statement of the month in which cash assistance was first made;

(B) A statement that unless the party objects that child support payments have ceased accruing beginning with the support payment due on or after the date the obligor began receiving cash assistance, but not earlier than January 1, 1994;

(C) A statement that the enforcement entity will continue providing enforcement services including medical support enforcement, if applicable, and services to collect any arrearages;

(D) A statement that if the obligor ceases to receive cash assistance listed under paragraphs (2)(a)(A) through (D) of this rule that accrual and billing will begin with the next support payment due following the end of the last month that the obligor receives cash assistance;

(E) A statement that any party may object to the presumption that the obligor is unable to pay support by sending to the enforcement entity a written objection within 20 days of the date of service;

(F) A statement that the objections must include a written description of the resource or other evidence that might rebut the presumption of inability to pay;

(G) A statement that the entity responsible for providing enforcement services represents the state and that low cost legal counsel may be available.

(c) Included with each notice will be a separate form for the party to use if they choose to file an objection to the presumption that the obligor is unable to pay support;

(d) The notice will be served on the obligee by personal service or by certified mail. The notice will be served upon the obligor by regular mail. The enforcement entity will narrate the service of all parties to the support order on the DHR child support computer file, and include the date of service.

(e) If a written objection is received by the enforcement entity, the enforcement entity shall not make a determination with regard to the objection. The enforcement entity shall immediately set the matter for hearing before a court or hearing officer, unless the party withdraws the objection;

(f) If the court finds the presumption has not be rebutted, the court's finding will be part of the court record and the enforcement entity does not have to file anything else with the court. If no objection is made, or if a hearing officer finds that the presumption has not been rebutted, the enforcement entity will file a copy of the notice or hearing order with the court. In all situations, the enforcement entity will continue providing enforcement services, including medical support enforcement, if applicable, and services to collect any arrearages;

(g) If a court or hearing officer finds that the presumption has been rebutted, the enforcement entity will narrate the finding on the DHR child support computer file, and will continue to provide all appropriate enforcement services. The enforcement entity will either:

(A) Notify Child Support Accounting Unit by electronic means that the presumption has been rebutted so the child support case is adjusted to reflect the findings; or

(B) The enforcement entity may make the necessary adjustments to the case file to begin billing and accrual and to adjust the case to reflect the findings that the presumption has been rebutted.

(4) If a case is in Function 7, Priority 1, the enforcement entity will refer to the information prior to establishing any child support obligation. If services to establish paternity are needed, the enforcement entity shall provide those services, but will refer to the information prior to establishing any child support obligation.

(5) If any obligor in a IV-D case ceases to receive cash assistance under paragraphs (2)(a)(A) through (D) of this rule, DHR will send notice to all parties to the support order within 30 days. A copy of this notice will also be sent to the enforcement entity. DHR will narrate the case file with the narrative "O off PA as of (date)", will resume billing and accrual, if applicable and move the case out of the child support matrix, Function 7, Priority 1, or Function 7, Priority 4. The billing and accrual will begin with the next support payment due following the end of the last month that the obligor receives cash assistance. The notice will include the following:

(a) A statement that cash assistance under paragraphs (2)(a)(A) through (D) has ended and the month that cash payment ended;

(b) A statement that by operation of law, the billing and accrual has resumed, if applicable beginning with the next support payment due following the end of the last month that the obligor received cash assistance;

(c) A statement informing the parties of their right to request a review and modification of the support order based on a substantial change in circumstance or pursuant to ORS 25.287 or any other provision of law;

(d) A statement that the DA and SED represent only the state and that low cost legal counsel may be available.

(6) The enforcement entity responsible for the case will file the copy of the notice it receives in section (5) of this rule with the court within 30 days.

(7) A hearing officer, or the court, may grant credit or satisfaction against arrearages that accrue on or after January 1, 1994, for the month or months the obligor receives cash assistance if DHR has not suspended the accrual or credited the child support case.

(8) The presumption, nonaccrual and arrearage credit rights, apply to all Oregon child support orders, and are not limited to cases where payments are made through DHR. However, DHR and the enforcement entities which provide enforcement services, are not responsible for providing services in non-IV-D cases. An obligor or obligee may, however, apply for IV-D services at any time.

Stat. Auth.: ORS 25.080, 25.245, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 4-1994, f. & cert. ef. 3-4-94

461-195-0125

Application for Credit and Satisfaction for Child Support Owing While Obligor Received Cash Public Assistance

(1) This rule contemplates an application for a credit and satisfaction pursuant to ORS 25.245 section (6) for any child support owing for months during which that obligor received cash assistance as defined in ORS 25.245 section (1).

(2) The following conditions apply to such application for credit and satisfaction:

(a) No credit or satisfaction shall be given for periods for which the court or hearings officer has previously declined to suspend the obligor's child support obligation in an action under ORS 25.245;

(b) No credit or satisfaction contemplated by ORS 25.245 section (6) shall be given for child support coming due before January 1, 1994.

(3) An application for credit and satisfaction may be made at the entity providing enforcement services under ORS 25.080:

- (a) The enforcing entity shall provide a form "Application for Credit and Satisfaction";
- (b) The form application shall be provided to any person receiving child support services who requests such application or who raises concerns or questions regarding child support arrearages incurred while receiving public assistance, as defined in ORS 25.245 section (1);
- (c) The enforcing entity shall provide notice to the obligee that an Application for Credit and Satisfaction has been made;
- (d) Service of the Notice of Application for Credit and Satisfaction upon the obligee shall be the same as provided in ORS 25.245 section (2);
- (e) The enforcing entity shall provide the form of an Objection and Request for Hearing with service of the Notice of Application for Credit and Satisfaction upon the obligee.
- (f) If an obligee completes and returns the Objection and Request for Hearing within 20 days, the entity shall forward all relevant documents to the Employment Department Hearings Section.
- (g) The Employment Department shall schedule a hearing and advise the parties of the time, place and method of hearing.
- (h) If, after 20 days, the obligee has not returned the Objection and Request for Hearing to the enforcing entity, the entity shall submit the form of the appropriate order to the hearing officer for entry.

(4) Nothing in this rule precludes application directly to the court for the relief provided by ORS 25.245 section (6).

Stat. Auth.: ORS 25.020, 25.080, 25.245, 409.020 & 411.060

Stats. Implemented: ORS 25.245(6)

Hist.: AFS 23-1996, f. 5-31-96, cert. ef. 7-1-96

461-195-0136

Support for Child Attending School

- (1) The purpose of this rule is to define how the AFS Child Support Unit (CSU) will apply the provisions of ORS 107.108, regarding support or maintenance for a child attending school, in performing its official billing, accrual, and recordkeeping functions for ongoing support. For purposes of this rule only, all references to termination of a support obligation, or termination of CSU's official functions, shall apply only with regard to:
- (a) The obligor's ongoing support obligation and not with regard to arrearages that may be owed when the ongoing support obligation terminates;
 - (b) The obligor's ongoing support obligation for the child whose status as a "child attending school" is in question, and not with regard to any support obligation the obligor may have for other children.
- (2) The AFS Child Support Unit (CSU) shall perform its official billing, accrual, and record-keeping functions for each child on a support obligation who qualifies as a "child attending school" after attaining age 18. A child who has attained age 18 qualifies as a "child attending school" when all of the following conditions exist:
- (a) The child must be under 21 years of age and unmarried;
 - (b) The child support order must specifically provide for support payments from age 18 to 21 for a child attending

school, in accordance with ORS 107.108;

(c) The child must regularly attend school at least half-time, as defined by the school. For purposes of this rule, a "school" is either:

- (A) An educational facility such as a high school, community college, four-year college, or university; or
- (B) A course of vocational or technical training, including Job Corps, designed to fit the child for gainful employment; or
- (C) A high school equivalency course, including (but not limited to) a GED program.

(3) CSU shall terminate its official functions on the case for any such child when one of the following occurs:

- (a) The obligee, an authorized enforcing agency, or the child advises CSU in writing that the child is not attending school, and the child has attained age 18;
- (b) CSU has mailed a written notice to the obligee, as provided under section (4) of this rule, and neither the obligee nor the child notifies CSU in writing that the child who has attained age 18 qualifies as a "child attending school";
- (c) CSU is given a written statement, written on the school's official letterhead and signed by an authorized official of the school, verifying that the child does not qualify as a "child attending school" under section (2) of this rule. However, if the obligor provides the written statement from the school, CSU shall terminate its official functions only when the provisions of subsection (7)(f) of this rule have been followed;
- (d) The child attains age 21, or becomes legally married;
- (e) The support obligation is terminated by court or administrative order.

(4) Before terminating its official functions for any child on the basis of the child attaining age 18, CSU shall send written notification to the obligee. Such notice shall advise the obligee that unless the obligee or child notifies CSU within 30 days, in writing and notarized, that the child will continue to attend school, the support obligation shall end effective on the date the child attained age 18:

- (a) When the obligee or child notifies CSU in writing that the child plans to attend school at the beginning of the first regular enrollment term following graduation from high school, after having attained age 18, CSU shall continue its official functions without interruption through any interval before the start of the next regular enrollment term:
 - (A) This provision applies specifically to cases where a child graduates from high school at the end of a regular school year and intends to attend college, or a vocational training program, when classes begin following summer vacation;
 - (B) Upon receiving a written statement of the child's intent to attend school at the beginning of the first regular enrollment term following graduation from high school, CSU shall notify the obligor of the child's stated intent.
- (b) If the obligee or child does not provide the required notification to CSU by the date indicated in CSU's notice to the obligee, CSU shall:
 - (A) Terminate its official functions effective on the date the child attained age 18;
 - (B) Not reinstate the support obligation on its records until the first day of the month in which the obligee or child either provides such notice to CSU, or otherwise notifies CSU, in writing and notarized, that the child has actually resumed attending classes.

(5) When a child is attending school, and a normal break (such as summer vacation) occurs between academic terms at the school, CSU shall continue its official functions throughout such break if the child intends to resume classes at the start of the first regular academic term following the break.

(6) When CSU receives written notification from the authorized support enforcement agency, the obligee, or the child, that the child has not resumed classes (or does not intend to resume classes) following a normal academic break such as summer vacation, CSU shall terminate its official functions effective on either:

(a) The day after the final date that the child last attended school at least half-time, if that date is specified in the written notification; or

(b) When the date the child last attended school is not specified, either the date that CSU received the written notification or, if an earlier date, the postmark date of the written notification.

(7) If an obligor asserts to CSU that the child is no longer attending school, CSU shall send a written notice to the obligee and to the child:

(a) Such notice shall ask the obligee or the child to notify CSU in writing, within 30 days of the date of the notice, of whether or not the child is attending school, and:

(A) If the child is attending school, to also provide a written statement, written on the school's official letterhead and signed by an authorized official of the school, verifying that the child is regularly attending that school at least half-time, as defined by that school; or

(B) (If the child is not attending school) the last day that the child did attend school at least half-time.

(b) Such notice shall also advise the obligee that if the obligee does not so notify CSU within 30 days, CSU will terminate its official functions on the case for that child effective on the date that the obligor so notified CSU;

(c) If the obligee or the child provides a written statement, written on the school's official letterhead and signed by an authorized official of the school, verifying that the child is still attending school at least half-time, CSU shall continue its official functions on the case;

(d) When the obligee, the child, or authorized support enforcement agency notifies CSU in writing that the child is no longer attending school, the provisions of section (6) of this rule shall apply;

(e) If neither the obligee nor the child responds to the CSU written notice within 30 days, CSU shall terminate its official functions as indicated in its notice;

(f) In any case where the obligor gives CSU a written statement from the school that the child no longer qualifies as a "child attending school" under section (2) of this rule, CSU shall nevertheless send the written notice required under this section to the obligee before terminating its official functions. The purpose of such notification shall be to give the obligee the 30-day time frame required under this section to provide a written statement if the child is attending another school.

(8) Once CSU has terminated its official functions under any provision of this rule, CSU shall resume its official functions if the child again qualifies as a "child attending school" before attaining age 21, subject to the following:

(a) CSU shall resume its official functions only upon being provided a written statement, written on the school's official letterhead and signed by an authorized official of the school, verifying:

(A) That the child is attending school at least half-time, as defined by the school; and

(B) The date that the child began attending classes.

(b) If the enforcing agency, obligee, obligor, or child notifies CSU that the child has resumed attending classes following a termination under any provision of this rule, CSU shall advise the notifying party that a written statement from the school is required in accordance with subsection (a) of this section;

(c) Upon receiving the written statement from the school as required under subsection (a) of this section, CSU shall resume its functions on whichever of the following dates occurs later:

(A) The date that the enforcing agency, obligee, or child first notified CSU that the child has resumed attending classes; or

(B) The date the child actually resumed attending classes at least half-time, as indicated in the school's written statement. CSU shall not resume its official functions retroactively to, nor prospectively from, any date preceding the appropriate date indicated in this subsection.

(d) The child must otherwise qualify as a "child attending school" under this rule;

(e) CSU shall notify the obligor in writing of the reinstatement, including the effective date.

(9) When CSU determines the effective date for either terminating or resuming its official functions, as provided in this rule, CSU shall then follow the provisions of OAR 461-195-0080 in determining either:

(a) The final month for which the obligor owes support on a case where CSU is terminating its official functions; or

(b) The first new month for which the obligor owes support on a case where CSU is resuming its official functions.

(10) Whenever an enforcement agency, the obligee, or the child provides written notice to CSU under this rule, CSU shall immediately notify the obligor of such notice.

(11) Educational credit for "work experience", "life experience", or other such activities shall not qualify a child as a "child attending school", unless all of the following conditions are true:

(a) The child was a registered student at the school at the time the child performed such activities;

(b) The experience was part of a regular program of instruction as defined by the school;

(c) The credit earned for such activity, either by itself or in combination with credit the child earned from attending regular classes, is sufficient to meet the school's definition of "half-time" enrollment for the affected enrollment period.

(12) In any case where an obligee, a child, and/or an enforcing agency provide conflicting verification to CSU regarding whether or not a child aged 18 to 21 is attending school, a written statement, signed by an authorized official of the school, shall prevail over information provided by any other party.

(13) In any case where the provisions of a court order or administrative order conflict with the provisions of this rule, regarding whether or not the child qualified as a "child attending school" under ORS 107.108 for any time period, CSU shall honor the provisions of the court order in performing its official functions on the case.

(14) Any notification or statement from the obligee or child, which would require CSU to continue, suspend, or reinstate its official functions as provided under this rule, must be in the form of a written statement, with a notarized signature:

(a) CSU shall advise the obligee and the child of this requirement whenever asking for such notification or statement;

(b) A notarized statement shall not be required under this section when a written statement, signed by an authorized official of the school, verifying whether or not the child qualifies as a "child attending school" under section (2) of this rule, is provided to CSU.

Stat. Auth.: ORS 107.108, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 21-1991, f. 10-23-91, cert. ef. 11-1-91; AFS 26-1991, f. 12-31-91, cert. ef. 1-1-92; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 31-1992, f.

10-29-92, cert. ef. 11-1-92; AFS 18-1997(Temp), f. 9-23-97, cert. ef. 10-4-97

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

461-195-0150

Compromise of Arrearages

- (1) The AFS Child Support Unit (CSU) may satisfy all or any portion of a child support claim which is assigned to the State, to the extent of the State's interest in that claim. The satisfaction may not impinge on the residual rights of the assignor. Any plan of compromise must be entered into consistent with sound business practices.
- (2) The Administrator of the Support Enforcement Division of the Department of Justice and the attorneys in the Family Law Section of the Department of Justice have authority to sign satisfactions on behalf of the Department of Human Resources.
- (3) The following guidelines shall be observed:
 - (a) Compromise is only to be used as an extraordinary measure and not as a routine enforcement technique;
 - (b) The probability that the debt may be fully collected in the future will be taken into account;
 - (c) A summary of each transaction will be made a part of the permanent file;
 - (d) No satisfaction based on a compromise will be executed until the consideration agreed upon as part of the compromise is made.

Stat. Auth.: ORS 18.400, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-025

461-195-0155

Satisfaction of Support Judgments

The purpose of this rule is to define how the Department of Human Resources (DHR), or its designee, will credit "satisfactions of support judgment" in certain circumstances. This rule shall not be construed as limiting the authority of DHR or its designee to approve or credit a satisfaction of support judgment in other lawful circumstances not specified in this rule.

- (1) When support records are kept by DHR, an obligee may satisfy amounts indicated on DHR's records as past due by filing a properly-completed "satisfaction of support judgment" form with DHR, subject to approval by DHR under the provisions of this rule; or in accordance with Rule 461-195-0157.
- (2) When current support or past-due support amounts are assigned to the State of Oregon or a subpart thereof, or to another state or subpart thereof, pursuant to federal or state law, and the obligor is seeking credit for support payments not made through DHR:
 - (a) DHR, or the Administrator of the Support Enforcement Division (SED) of the Department of Justice (DOJ) or the Administrator's designee, or their attorneys in DOJ on behalf of DHR, have authority to approve and sign satisfactions.

(b) This authority may be exercised only when the obligee has signed a satisfaction of judgment form which acknowledges that the support payment was received.

(3) DHR, or the Administrator of SED or the Administrator's designees, or their attorneys in DOJ on behalf of DHR, have authority to sign and approve satisfactions of judgment for money paid through DHR as payment of assigned support.

(4) DHR will record, on the DHR payment record, all properly-completed satisfactions of support not assigned, and all satisfactions ordered by a court or a DHR hearing order, and all satisfactions for assigned support that are approved by DHR, SED, or their DOJ attorney in accordance with Section (3) of this rule. DHR shall also promptly forward the satisfaction form to the appropriate clerk of the court, together with a DHR certificate stating the amount of support satisfaction entered on DHR's support payment records.

(5) Except when satisfied and approved by DHR, SED, or their attorneys in DOJ, or by a court or DHR hearing order, DHR will not enter a satisfaction on its records for support that has been assigned to the State of Oregon, Department of Human Resources, Adult and Family Services Division or the State Office for Services to Children and Families, or to any jurisdiction outside of Oregon for reimbursement of public assistance or maintenance payments.

(6) When DHR rejects a satisfaction in part or in full as provided in (5) above, DHR will send written notice to the obligor and obligee, by regular mail to the most recent address of record. Such notice will indicate the reason for the rejection.

(7) All satisfactions must contain the following:

(a) The full names of both the obligor and the obligee;

(b) The name of the Oregon county where the support order was entered;

(c) The DHR support case file number, or the circuit court case number;

(d) Either:

(A) The total dollar amount to be satisfied; or

(B) The period of time for which past due support is satisfied;

(e) A statement that the satisfaction is only for child support and/or spousal support;

(f) The signature of the obligee, except for those satisfactions approved by DHR or DOJ under Section (3) of this rule, where the obligee's signature is not required;

(g) The Social Security number of the obligee; and

(h) The date the form is signed.

(8) All signatures on "satisfactions of support judgment" must be notarized, except on court orders or on those satisfactions approved by DHR or DOJ under Section (2) of this rule.

Stat. Auth.: ORS 18.400, 25.020, 409.020 & 411.060

Stats. Implemented: ORS 25.020

Hist.: AFS 21-1978, f. & ef. 5-30-78; AFS 26-1979(Temp), f. & ef. 8-16-79; AFS 22-1980, f. & ef. 4-3-80; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-005; AFS 17-1991, f. & cert. ef. 8-29-91; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 19-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 14-1996, f. 4-24-96, cert. ef. 5-1-96; AFS 28-1996, f. & cert. ef. 7-1-96

461-195-0157

Credit for Support Payments Not Made to the Department of Human Resources

- (1) In accordance with ORS 25.020, on any support case where the obligor is required to pay support through the Department of Human Resources (DHR), DHR shall not credit the obligor's support account for any payment not made through DHR, except as provided in ORS 25.020 and this rule.
- (2) The other provisions of this rule notwithstanding, on any case where an order of another state is registered in Oregon under ORS Chapter 110 for enforcement only, DHR does not have authority to give credit for payments not paid through DHR. In any such case, the obligor seeking credit must request credit from the issuing state, as defined in ORS 110.303(9). DHR shall adjust its records to reflect credit for such payments only upon receiving notification from the issuing state, in writing, by electronic transmission, or by telephone, that specified payments shall be credited.
- (3) DHR shall give credit for payments not made to DHR when:
- (a) Payments are not assigned to the State of Oregon or to another state, and the obligor and obligee agree in writing that specific payments were made and should be credited;
 - (b) Payments are assigned to the State of Oregon, and all of the following additional conditions are true:
 - (A) The obligor and obligee make sworn written statements that specific payments were made;
 - (B)The obligor or obligee present cancelled checks, or other substantial evidence, to corroborate that the payments were made; and
 - (C) DHR or the enforcing agency has given written notice to the obligee, prior to the obligee making a sworn written statement under subsection (a) of this section, of any potential criminal or civil liability that may attach to an admission of receiving the assigned support. Potential criminal or civil liability may include, but is not limited to:
 - (i) Prosecution for unlawfully receiving public assistance benefits;
 - (ii) Liability for repayment of any public assistance overpayments for which the obligee may be liable;
 - (iii) Temporary or permanent disqualification from receiving public assistance, food stamp, or medical assistance benefits due to an intentional program violation being established against the obligee for failure to report, to DHR, having received payments directly from the obligor.
 - (c) An Oregon enforcing agency is enforcing the case at the request of another state, regardless of whether or not support is assigned to that other state, and that state verifies that payments not paid to DHR were received by the other state or by the obligee directly. Such verification may be in writing, by electronic transmission, or by telephone.
 - (d) An order of a DHR hearings officer, or an order from a court of appropriate jurisdiction, so specifies. However, a DHR hearings officer does not have jurisdiction in cases where an Oregon enforcing agency is enforcing the case at the request of another state.
- (4) To receive credit for payments not made to DHR, the obligor may apply directly to DHR or the enforcing agency for credit, by providing the documents and evidence specified in section (3) of this rule.
- (a) If the obligee does not agree in writing that payments were made under subsection (3)(a) of this rule, or does not make a sworn written statement under subsection (3)(b) of this rule, the obligor may make request for a DHR hearing by writing directly to the DHR Hearings Unit;
 - (b) A DHR Hearings Officer may order, by written final order following from a hearing;

that DHR shall credit the obligor's support account for a specified dollar amount of payments not made through DHR, or for all payments owed through a specified date. Such order shall be based on cancelled checks, or other substantial documentation admitted as evidenced at the hearing, that the specified payments were made;

(c) DHR shall credit the obligor's account to the extent specified by written order of a DHR hearings officer.

(d) Prior notice of the hearing and of the right to object shall be served upon the obligee in accordance with ORS 25.085;

(e) Prior notice of the hearing and of the right to object may be served upon the obligor by regular mail to the address provided by the obligor when applying for credit;

(f) Any such hearing conducted under ORS 25.020 and this rule is a contested case hearing in accordance with ORS 183.413 through ORS 183.470. Any party may also seek a hearing de novo in the Oregon circuit court;

(g) The other provisions of this section notwithstanding, a DHR hearings officer does not have jurisdiction under this section in cases where an Oregon enforcing agency is enforcing the case at the request of another state.

(5) When an obligor wishes to request a DHR contested case hearing, or when an obligor or obligee wishes to request a hearing de novo in the Oregon circuit court or to appeal a court order or a DHR hearing order, responsibility for doing so rests solely with that obligor or obligee. Such responsibility includes preparation and filing of all forms and documents required by the court or DHR hearings officer, and payment of all fees required by the court. Neither DHR nor the enforcing agency shall have any such responsibility on behalf of the obligor or obligee, except as specifically required by law or administrative rule.

(6) Nothing in this rule precludes DHR from giving credit for payments not made through DHR when a judicial determination has been made giving credit or satisfaction, or when the person to whom the support is owed has completed and signed a "satisfaction of support judgment" form adopted by DHR in accordance with Rule 461-195-0155. Regarding payments assigned to DHR, the person to whom the support is owed shall be, for purposes of this Section, DHR or the Support Enforcement Division of the Oregon Department of Justice.

Stat. Auth.: ORS 25.020, Sections (8), (9), & (10), 409.020 & 411.060

Stats. Implemented: ORS 25.020, Sections (8), (9) & (10)

Hist.: AFS 42-1995, f. 1-28-95, cert. ef. 1-1-96; AFS 8-1996, f. 2-23-96, cert. ef. 3-1-96

461-195-0170

Writing Off Uncollectible Amounts of Assigned Child Support

(1) The AFS Child Support Unit (CSU) may certify to the Secretary of State, according to procedures specified in ORS 293.235, 293.240, and 293.245, that certain child support debts are uncollectible. CSU may certify only those debts that meet all of the following criteria:

(a) The amount certified has been assigned to the State of Oregon for reimbursement of public assistance, under ORS 416.410, 418.032, 418.042, or 419.513;

(b) CSU has made all reasonable efforts to collect the amount certified and has determined that the amount is uncollectible;

(c) No additional amount of court-ordered or administratively-ordered child support is accruing or will accrue on the account; and

(d) The amount certified is either:

(A) Less than the minimum amount that CSU can certify to the Department of Revenue for collection under ORS 293.250 and to the Internal Revenue Service of the federal government for tax refund interception; or

(B) Is a debt at least ten years old, regardless of amount, and no regular or periodic amounts of ongoing court-ordered or administratively-ordered child support have fallen due for at least ten years, and no judgment has been entered or renewed for the debt for at least ten years.

(2) When the Secretary of State notifies CSU that any such debt is uncollectible and directs CSU to write off the debt, CSU shall write off the debt as directed.

Stat. Auth.: ORS 293.235, 293.240, 293.245, 409.020, 411.060, 416.410, 418.042 & 419.513

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 12-1989, f. 3-27-89, cert. ef. 4-1-89; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-685

461-195-0175

Income Withholding -- General Provisions, Requirements and Definitions

(1) OAR 461-195-0175 through 461-195-0190 shall provide for collection of support by means of income withholding, in accordance with ORS Chapter 25 and all other applicable Oregon law, on all support cases being enforced in Oregon under Title IV-D of the Social Security Act. These rules shall apply to the following, independently or combined:

(a) Support owed for any current month;

(b) Past-due support arrearage amounts; and

(c) Interest on support arrearages. However, this subsection shall not be construed as indicating that the Department of Human Resources (DHR) has a duty to compute, accrue, or record interest on support cases that are on the DHR computer system.

(2) For purposes of OAR 461-195-0175 through 461-195-0190, the following definitions shall apply:

(a) "Alternative arrangement" (also known as "sure pay") means the electronic fund transfer method of paying support that is described in OAR 461-195-0020.

(b) "Best interests of the child" means that requiring payment of support by income withholding would be in the best interests of the child because:

(A) In the preceding twelve months, at least three of the obligor's payments have been received by DHR after the due date.

(B) At the end of any month, the obligor owes past-due support, even if the past-due amount is less than the amount of support payable for one month.

(C) Any other circumstance where the court or enforcing agency determines a risk, based on information provided by the obligee or otherwise discovered, that the obligor will not pay support promptly when due each month.

(c) "Disposable income" means the part of an individual's income that remains after the deduction of any amounts required to be withheld by law, except as provided in subsection (B) or (C) of this section.

(A) Amounts required to be withheld by law include, but is not limited to, required withholding for taxes and social security.

(B) Any amounts withheld for the following shall not be deducted from the obligor's income when computing disposable income, even if such withholding is required by law or by judicial or administrative order:

(i) Health insurance premiums.

(ii) Spousal or child support.

(C) An obligor may claim offsets against gross receipts for ordinary and necessary business expenses and taxes directly related to the income withheld. The obligor has the burden of proving such claims and must therefore furnish verifiable business records or documents to support any offsets claimed. The obligor also has the burden of furnishing such records or documents in a timely manner, and DHR shall not refund to the obligor, on the basis of such claims, any amounts withheld that DHR has already disbursed to the obligee.

(d) "Enforcing agency" means the entity or agency responsible for providing support enforcement services pursuant to ORS 25.080.

(e) "Good cause" for not withholding means a situation that exists when:

(A) A court or enforcing agency makes a written determination that, and a written explanation in the official record of why, immediate income withholding would not be in the best interests of the child; and

(B) If the case involves the modification of an existing support order, there is proof of timely payment of previously-ordered support and there are no arrears. Timely payment is indicated when the obligor has not previously become subject to "initiated" income withholding under the existing order.

(f) "Immediate" income withholding means that withholding for support is effective upon entry of the support order, and the order contains a provision requiring income withholding.

(g) "Initiated" income withholding, also known as "automatic" income withholding, means income withholding that shall occur when a support arrearage has accrued that is at least equal to the amount of support due for one month on the case, regardless of whether or not the support order requires withholding.

(h) "Official record" means either:

(A) The court record, in cases where an exception to income withholding is approved during court proceedings; or

(B) The official DHR automated record-keeping and case narrative system, in cases where an exception to income withholding is approved by an enforcing agency.

(i) "Order to withhold" means any court order or administrative order, including any notice or order generated by DHR, that directs a withholder to withhold income pursuant to ORS Chapter 25.

(3) Collection of support by income withholding, pursuant to ORS Chapter 25 and to these rules, is in addition to any other remedy provided by law for the collection of support.

(4) Withholding may be extended to forms of income other than income derived from employment, including but not limited to unemployment compensation, worker's compensation, retirement or pension benefits, and cash dividends from stocks or bonds, as permitted or required under state and federal law.

(5) Disposable income is subject to an order to withhold without the need for any amendment to the support order involved or for any other further action, other than those actions required or permitted under ORS Chapter 25.

(6) Withholding under these rules has priority over any other legal process under Oregon law against the same income,

- in accordance with ORS 25.722, including having priority over withholding for health insurance under ORS 25.255.
- (7) On any case, DHR or the enforcing agency shall take action to assure that withholding is promptly terminated in any case where:
- (a) There is no longer a current order for support and all arrears have been paid or satisfied; or
 - (b) The obligor requests termination and withholding has not been terminated previously and subsequently initiated, and the obligor meets the conditions for an alternative arrangement set forth in OAR 461-195-0176.
- (8) DHR shall promptly refund, to the obligor involved, any and all amounts which have been erroneously withheld due to an error by DHR.
- (9) All support orders issued or modified in Title IV-D cases shall include a provision requiring the obligor to keep DHR or the enforcing agency informed of:
- (a) The name and address of the obligor's current employer.
 - (b) Whether or not the obligor has access to health insurance coverage at reasonable cost, as defined in ORS 25.255, and if so, the health insurance policy information.
- (10) If an obligor on a Title IV-D case changes employment within Oregon when a withholding is in effect, DHR shall, upon learning the identity and location of the new employer, issue a new order to withhold to the new employer in accordance with OAR 461-195-0183.

Stat. Auth.: ORS 25.020, 25.311 - 25.370, 409.020, 411.060, 656.234 & 1995 Senate Bills 213 & 218

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 12-1994, f. 6-28-94, cert. ef. 7-1-94; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95

461-195-0176

Immediate Income Withholding and Exceptions

- (1) When any support order is entered or modified, the order shall require the obligor to pay support by income withholding, pursuant to ORS 25.311 and to this rule. For purposes of this rule, such withholding constitutes immediate income withholding as defined in Rule 461-195-0175 (2). This requirement shall apply to:
- (a) All support orders or modifications entered on or after October 3, 1989, on cases that either:
 - (A) Qualified as IV-D cases, under Title IV-D of the Social Security Act, at the time the order or modification was entered; or,
 - (B) Did not qualify as IV-D cases at the time the order was entered, but contained provisions specifically requiring income withholding for payment of support.
 - (b) All support orders or modifications entered on or after November 4, 1993, including those entered on cases that do not qualify as IV-D cases under Title IV-D of the Social Security Act.
- (2) In all cases affecting a support order for which the Department of Human Resources (DHR) has responsibility as a IV-D case, if the support order requires income withholding under section (1) of this rule, DHR shall serve an order to withhold income to any appropriate withholder identified for the obligor:

- (a) DHR shall so serve the order to withhold regardless of whether DHR or another party initiated the support action;
 - (b) DHR shall serve the order to withhold on the withholder, either personally upon the withholder or upon the withholder's agent, an officer of the corporation, bookkeeper, accountant, person responsible for payroll, or local office manager, or by any type of mail which is calculated to give actual notice and is addressed to one of the persons listed above;
 - (c) DHR shall not be responsible for initiating service of the withholding order if, prior to initiating service, DHR receives written notice that service has been completed by another party;
 - (d) DHR shall not serve an order to withhold income under this rule in any case where the support order does not specifically require income withholding. In any such case, DHR shall serve an order to withhold income only in accordance with OAR 461-195-0177, Initiated Income Withholding and Exceptions.
- (3) On any support case where the obligor is subject to immediate income withholding under this rule, the obligor or obligee may request that withholding be discontinued or not begun, and an exception to withholding may then be allowed, if the following requirements pursuant to ORS 25.317 are met:
- (a) All arrearages are paid in full;
 - (b) The obligor has not previously been granted an exemption from withholding; and,
 - (c) Either of the following:
 - (A) The obligor and obligee sign a written agreement for an alternative arrangement, subject to Section (4) of this rule; or
 - (B) A court or the enforcing agency makes a written finding that there is good cause not to require withholding, and enters a written explanation of this finding on the official record, as defined in Rule 461-195-0175(2).
- (4) On any support case being enforced under Title IV-D of the Social Security Act, if the obligor and obligee agree in writing to an alternative arrangement under Section (3)(c)(A) of this rule and pursuant to ORS 25.317, the written agreement is subject to the following requirements:
- (a) The written agreement must be in accordance with OAR 461-195-0178, including a requirement that the obligor pay support by means of the electronic fund transfer (EFT) payment method described under OAR 461-195-0020;
 - (b) If money is owed to the State of Oregon under the support order, the State must also be a party to the written agreement. The Department of Human Resources (DHR) or the enforcing agency shall have authority to approve or disapprove the agreement on behalf of the State;
 - (c) The enforcing agency shall enter the written agreement into the official record, as defined in OAR 461-195-0175(2).
- (5) Notwithstanding any other provision of this rule, when the requirement to pay support is contingent upon the child being in the custody of the State Office for Services to Children and Families and residing in a state-supported residence, shelter, or other facility or institution as provided for in ORS 416.417, and the support case is being enforced under Title IV-D of the Social Security Act, the following provisions shall apply:
- (a) The enforcing agency or DHR will grant an exception from immediate income withholding when the obligor does both of the following:
 - (A) Requests such exemption in writing;
 - (B) Pays to DHR all past-due amounts that have accrued under the order;
 - (b) In any such case, DHR shall return, to the obligor:

- (A) Any authorization for EFT payment the obligor has submitted under OAR 461-195-0020 and 461-195-0178; and
- (B) Any undisbursed amount that the obligor had paid to DHR in order to register or EFT payment under OAR 461-195-0020 and 461-195-0178.

(6) When an exception is granted under this rule:

- (a) For an existing income withholding order, DHR shall take the appropriate steps to suspend the withholding and generate written notification to the withholder to suspend income withholding.
- (b) When an obligor is excepted from withholding prior to the withholder being notified to begin withholding, the enforcing agency shall take the appropriate steps to halt the withholder's order to withhold income.

Stat. Auth.: ORS 25.020, 25.311 - 25.370, 409.020, 411.060; 656.234; & 1995 Senate Bills 213 & 218.

Stats. Implemented: 1995 Senate Bills 213 & 218

Hist.: AFS 7-1994, f. & cert. ef. 4-1-94; AFS 3-1995, f. 1-27-95, cer. ef. 2-1-95; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 3-1995, f. 1-27-95, cert. ef. 2-1-95; AFS 34-1995, f. 11-27-95, cert. ef. 12-1-95; AFS 39-1995, f. & cert. ef. 12-15-95

461-195-0177

"Initiated" Income Withholding and Exceptions

- (1) On any support order entered or registered in Oregon, the obligor shall become subject to "initiated" income withholding, as defined in OAR461-195-0175(2), pursuant to ORS 25.311 and the provisions of this rule.
- (2) The court, enforcing agency, or DHR must give advance notice of initiated withholding to the obligor and obligee before such withholding may commence, in accordance with OAR 461-195-0179, except for those circumstances where advance notice is specifically not required under ORS 25.311 and this rule.
- (3) A court, an enforcing agency, or the Department of Human Resources (DHR), whichever is appropriate, shall initiate income withholding when both of the following are true:
 - (a) The amount of past-due support owed by the obligor is at least equal to the amount of the ongoing monthly support obligation on the case; and
 - (b) Thirty days have expired since the obligor's payment due date for the preceding month.
- (4) When an arrearage exists and notice of the past-due amount has been given to the obligor, a court, upon application, shall issue a withholding order upon the ex parte request of the obligee or the enforcing agency. In such cases, advance notice under section (2) of this rule is not required.
- (5) The obligor may initiate a withholding order, ex parte, at any time by motion to the court or by request to the enforcing agency or DHR. In such cases, advance notice under section (2) of this rule is not required.
- (6) If an obligor is not otherwise subject to withholding, the obligee may at any time request that withholding be initiated, subject to the following:
 - (a) Unless the obligor has been granted an exception to income withholding by a court under ORS 25.317 or OAR 461-195-0176, a court or the enforcing agency may issue a withholding order if both of the following are true:
 - (A) The obligor has been given advance notice in accordance with section (2) of this rule and with OAR 461-195-0179; and

(B) The court or enforcing agency finds that income withholding would be in the best interests of the child, as defined in OAR 461-195-0175(2).

(b) On any case where an obligor has been granted an exception to withholding by a court, the obligee who wants withholding must apply for withholding by motion to the court. If an enforcing agency wants withholding, it must apply for withholding by motion to the court.

(8) Notwithstanding any other provision of this rule, when the requirement to pay support is contingent upon the child being in the custody of the State Office for Services to Children and Families and residing in a state-supported residence, shelter, or other facility or institution as provided for in ORS 416.417, the following provisions shall apply:

(a) The enforcing agency or DHR will grant an exception from initiated income withholding when the obligor does both of the following:

(A) Requests such exemption in writing.

(B) Pays to DHR all past-due amounts that have accrued under the order.

(b) In any such case, DHR shall return, to the obligor:

(A) Any authorization for EFT payment the obligor has submitted under OAR 461-195-0020 and 461-195-0178; and

(B) Any undisbursed amount that the obligor had paid to DHR in order to register for EFT payment under OAR 461-195-0020 and 461-195-0178.

Stat. Auth.: ORS 25.020, 25.311 - 25.370, 409.020, 411.060, 656.234 & 1995 Senate Bills 213 & 218

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 62-1985(Temp), f. & ef. 10-28-85; AFS 30-1986, f. & ef. 4-1-86; AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; Renumbered from 461-35-049; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 29-1990, f. 12-13-90, cert. ef. 1-1-91; AFS 3-1992, f. 1-31-92, cert. ef. 2-1-92; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95

461-195-0178

"Alternative Written Agreement" Exceptions from "Immediate" Income Withholding

(1) The purpose of this rule is to describe the requirements for a written agreement for an alternative method of paying support, as an exception to "immediate" income withholding, when:

(a) An obligor and/or an obligee wants such an agreement as an alternative to the immediate income withholding requirements under OAR 461-195-0176; and

(b) The support case qualifies as a IV-D case under Title IV-D of the Social Security Act.

(2) For the purposes of this rule the Department of Human Resources (DHR) or the enforcing agency will be the "administrative authority" specified by applicable federal regulations;

(3) For all support cases qualifying as IV-D cases under Title IV-D of the Social Security Act, the alternative arrangement must require that support payments be made through the electronic fund transfer program described under OAR 461-195-0020, which is commonly known as "Sure-Pay". However, when an obligor and/or obligee seek to enter into such an agreement as an alternative to immediate income withholding, the following additional requirements must be met:

- (a) Both the obligor and the obligee must sign a written statement in which they agree that "Sure-Pay" shall be the alternative method of paying support. However, for any IV-D case where support has been assigned to the State, the Department of Human Resources (DHR) has the right to approve, deny, or cancel any such written agreement;
- (b) The obligor must then do all of the following:
 - (A) Complete the process of applying for "Sure-Pay" with the Department of Human Resources (DHR).
 - (B) Pay, to DHR when due, the amount due for current support each month, until DHR activates the "Sure-Pay" payment method on the case.
 - (C) Pay to DHR an additional amount sufficient to pay all past-due support, if any, that has accrued under the obligor's order to pay support, according to DHR's records of the obligor's support account.
- (c) Any such written agreement must be reviewed and entered into the official record of the case by either the appropriate court or enforcing agency, or by DHR.
- (4) When the obligor and obligee have met all requirements under this rule, the court or the enforcing agency shall grant the exception from income withholding.
- (5) In any case where DHR accepts and implements "Sure-Pay" under this rule, DHR shall:
 - (a) Distribute funds collected under paragraph (3)(b)(B) of this rule as regular monthly support payments, according to DHR distribution policy, until the electronic fund transfer is activated;
 - (b) Credit all funds collected under paragraph (3)(b)(C) of this rule as payment of arrearages on the obligor's DHR account, and shall distribute such funds according to DHR distribution policy;
- (6) An exception granted under this rule automatically ends if an arrearage equal to or greater than one month's support obligation occurs:
 - (a) This shall include cases where the arrearage results because the obligor's financial institution refuses to honor a "Sure-Pay" payment, when presented for payment by DHR, due to insufficient funds in the obligor's account;
 - (b) The enforcing agency or DHR shall send advance written notification to the obligor, as required in OAR 461-195-0179, before terminating the exception and reinstituting income withholding.
- (7) For all support cases that are not IV-D cases, any written agreement for an alternative arrangement, if agreed to and signed by both the obligor and the obligee, shall be deemed sufficient to qualify for an exception from income withholding, without need for a "sure-pay" application under this rule.

Stat. Auth.: ORS 25.315, 25.317, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 24-1991, f. 11-26-91, cert. ef. 12-1-91; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 30-1994, f. 12-29-95, cert. ef. 1-1-95

461-195-0179

Advance Notice to the Obligor of "Initiated" Income Withholding

- (1) On any support case being enforced under Title IV-D of the Social Security Act, the Department of Human Resources (DHR) or the enforcing agency shall, pursuant to ORS 25.315, send advance written notice to the obligor and

obligee at least 14 days before "initiated" income withholding shall commence. DHR shall ensure that such notice complies with ORS 25.315 and states all information required by ORS 25.315.

(2) The notice may express the amount to be withheld as a percentage of income, rather than as a specific dollar amount.

Stat. Auth.: ORS 25.315, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 4-1991, f. 1-28-91, cert. ef. 2-1-91; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94

461-195-0181

Contested "Initiated" Income Withholding

(1) If an obligor wants to contest an order for "initiated" income withholding, the obligor must do so pursuant to ORS 25.316:

- (a) The only basis for contesting the withholding is a mistake of fact, pursuant to ORS 25.316;
- (b) If the obligor does not contest the order to withhold income within 14 days of the advance notice issued under ORS 25.315 and OAR 461-195-0179, the withholding shall proceed. The enforcing agency or Department of Human Resources (DHR) shall then serve the Order to Withhold Income on the withholder, pursuant to ORS 25.314 and OAR 461-195-0183.

(2) If the order to withhold was issued by a court, the obligor wishing to contest the order must do so in the court that issued the order.

(3) If the order to withhold was issued pursuant a request for enforcement services under ORS 25.080, and the obligor contests the withholding in writing to an enforcing agency pursuant to ORS 25.316, the enforcing agency shall:

- (a) Send a copy of the written objection to the obligee;
- (b) Allow the obligee 14 days to respond before proceeding further;
- (c) Determine if the withholding shall occur or not, based on an evaluation of the facts, within 45 days of the advance notice date.
- (4) When the enforcing agency determines under section (3) of this rule that withholding shall occur, the enforcing agency shall:

(a) Notify the obligor in writing of its decision, and send a copy of this notification to the obligee. Pursuant to ORS 25.316, this notification shall also advise the obligor and obligee of:

- (A) The right to appeal the determination, pursuant to to section (7) of this rule;
- (B) The information required by ORS 25.314.

(b) Serve the Order to Withhold Earnings on the withholder, pursuant to ORS 25.314 and OAR 461-195-0183. The enforcing agency may do so by asking DHR to mail the order to the withholder.

(5) When the enforcing agency determines under section (3) of this rule that the withholding shall not occur because a mistake of fact has occurred, the enforcing agency shall:

(a) Notify the obligor in writing of its decision, and send a copy of this notification to the obligee. Pursuant to ORS 25.316, this notification shall also advise the obligor and obligee of the right to appeal the determination, pursuant to section (7) of this rule;

(b) Correct the case to halt the withholding;

(c) If appropriate, effect generation of the advance notice to the correct obligor.

(6) The enforcing agency may make its decision under section (3) of this rule without providing an opportunity for a contested case hearing or a court hearing, pursuant to ORS 25.316.

(7) Either the obligor or obligee may appeal the enforcing agency's decision to the circuit court for a hearing de novo, pursuant to ORS 25.316. Any such appeal shall not act to stay withholding, unless otherwise ordered by the court.

Stat. Auth.: ORS 25.316, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 7-1994, f. & cert. ef. 4-1-94

461-195-0183

Order to Withhold Income

(1) On any support case being enforced under Title IV-D of the Social Security Act, the enforcing agency or DHR shall issue an Order to Withhold Income, pursuant to ORS 25.314, whenever no exception to withholding has been granted pursuant to ORS 25.317, and:

(a) The obligor is subject to immediate income withholding pursuant to OAR 461-195-0176; or

(b) The obligor is subject to initiated income withholding pursuant to OAR 461-195-0177, and has not contested the withholding within 14 days of the advance notice sent pursuant to ORS 25.315 and OAR 461-195-0179; or

(c) The obligor is subject to initiated income withholding pursuant to OAR 461-195-0177, and has contested the withholding pursuant to ORS 25.316 and OAR 461-195-0181, and the enforcing agency has then determined that there has been no mistake of fact.

(2) The enforcing agency or Department of Human Resources (DHR) shall serve the Order to Withhold Income upon the withholder, in accordance with ORS 25.314.

(3) If no payment is received from the withholder within 46 days of the date of Order to Withhold Income, the DHR computer system will notify the enforcing agency. The enforcing agency shall then take the following additional action to assure compliance with the Order to Withhold Income:

(a) Telephone or write to the withholder and seek a commitment as to when the withholder will forward payment;

(b) Pend the case for ten days following the date given by the withholder;

(c) If payment is not received by the end of the ten-day pend period under subsection (b), above, or if the withholder otherwise refuses to cooperate, seek a judicial income withholding order in court;

(d) Determine if the employer should be held liable for failure to withhold, pursuant to ORS 25.363.

Stat. Auth.: ORS 25.080, 25.314, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 22-1993, f. 10-15-93, cert. ef. 11-1-93; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 7-1995, f. 3-27-95, cert. ef. 4-1-95

461-195-0185

Income Withholding Limitations and Distribution

- (1) When a withholder receives an Order to Withhold Income under ORS 25.314 and OAR 461-195-0183, the withholder shall withhold pursuant to ORS 25.351 through 25.361.
- (2) No withholding as calculated under under this rule and ORS 25.351, including the withholder's processing fee under OAR 461-195-0190, shall exceed 50 percent of the obligor's net disposable income. This limit applies whenever withholding is implemented, whether by a single order or by multiple orders against the same obligor.
- (3) Notwithstanding any other provision of this rule or of Oregon law, an enforcing agency or a party holding support rights may petition the court to order the withholding of more than the amounts specified under this rule or Oregon law. However, in no case may an order require payment of an amount that exceeds the limits imposed by the **Consumer Credit Protection Act (15 U.S.C. 1673(b))**.
- (4) The withholder shall withhold from the obligor's monthly disposable income, other than workers' compensation under ORS Chapter 656 or unemployment compensation under ORS Chapter 657, the amount stated in the Order to Withhold Income. Such withholding is subject to the limitations in ORS 25.351:
- (a) If withholding is for current support only, the amount to be withheld is the amount due for current monthly support under the support order.
- (b) If withholding is for current support and arrearages are also due under the order, the amount to be withheld is the greater of:
- (A) 25 percent of disposable income other than workers' compensation under ORS Chapter 656 or unemployment compensation under ORS Chapter 657; or
- (B) The amount due under the order for current monthly support plus \$1.
- (c) If withholding is only for arrearages, the amount to be withheld is the least of:
- (A) 15 percent of disposable income other than workers' compensation under ORS Chapter 656 or unemployment compensation under ORS Chapter 657; or
- (B) The amount of the last ordered monthly support; or
- (C) The obligor's disposable monthly income minus 160 times the applicable federal minimum hourly wage prescribed by **Section 6 (a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206)** or any future minimum hourly wages prescribed in that section.
- (d) When, under sections (2) and (3) of this rule, the obligor's income is not sufficient for the withholder to fully comply with each withholding order on the obligor's cases, the withholder shall withhold as follows:
- (A) First, withhold the maximum amount allowable under either section (2) or (3) of this rule, whichever is applicable.
- (B) If the total amount thus withheld is not sufficient to pay the total current support due on all of that obligor's support cases for which a withholding order is in effect, each case shall receive a proportionate share of the total amount

withheld. For each case, the withholder shall determine this amount by:

(i) Dividing the amount ordered as current monthly support on the case by the total combined amount ordered as current support on all of the obligor's support cases for which a withholding order is in effect; and then,

(ii) Multiplying the resulting percentage by the total amount withheld.

(C) If the amount withheld from the obligor's income is sufficient to pay the current support due on all cases, but is not enough to comply fully with the withholding order on all cases where past-due support is owed, the withholder shall:

(i) Apply, to each case, the amount of support due for the current month;

(ii) Apportion the remaining funds equally to each case where arrearages are owed. However, no case shall receive more than the total amount of current support and past-due support owed on that case at the time this distribution is made;

(iii) On any case where withholding is for arrearages only, limit the apportionment to the lesser of the amounts specified above in subsection (c) of this section.

(D) On all Title IV-D cases, the withholder shall then forward the withheld amount to DHR, in compliance with subsection (10)(a) of this rule.

(5) The amount to be withheld from unemployment compensation payable to a support obligor under ORS Chapter 657 is calculated as follows:

(a) If withholding is for a current support order, whether or not arrearages exist, the amount to be withheld is the lesser of:

(A) 25 percent of the benefits paid; or

(B) The amount of the current monthly support obligation.

(b) If withholding is for arrearages only, the amount to be withheld is the lesser of:

(A) 15 percent of the benefits paid; or

(B) The amount of the last monthly support obligation.

(c) No processing fee shall be charged or collected when withholding is from unemployment compensation.

(d) When, under sections (2) and (3) of this rule, the obligor's income is not sufficient for the withholder to fully comply with each withholding order on the obligor's cases, the withholder shall withhold as follows:

(A) First, withhold the maximum amount allowable under either section (2) or section (3) of this rule, whichever is applicable.

(B) If the total amount thus withheld is not sufficient to pay the current support due on all of that obligor's support cases for which a withholding order is in effect, each case shall receive a proportionate share of the total amount withheld. For each case, the withholder shall determine this amount by dividing the amount ordered as current support on the case by the total combined amount ordered as current monthly support on all of the obligor's cases for which a withholding order is in effect, and then multiplying the resulting percentage by the total amount withheld. However, the amount apportioned to any one individual case where current support is owed is limited to the lesser of:

(i) 25 percent of the benefits paid; or

(ii) The amount of the current monthly support obligation.

(C) If the amount withheld from the obligor's income is sufficient to pay the current support due on all cases, but is not enough to comply fully with the withholding order on each case where arrearages only are owed, the withholder shall apportion the remaining funds equally to each case where arrearages only are owed. However, the amount apportioned to any one individual case where withholding is for arrearages only is limited to the lesser of:

- (i) 15 percent of the benefits paid; or
- (ii) The amount of the last monthly support obligation.

(D) On all Title IV-D cases, the withholder shall then forward the withheld amount to DHR, in compliance with section (10)(a) of this rule.

(6) The amount to be withheld from worker's compensation benefits payable to a support obligor under ORS Chapter 656 shall not exceed:

(a) 25 percent of benefits payable to the obligor due to temporary total disability under ORS 656.210 and temporary partial disability under ORS 656.212, or the amount of the current continuing monthly support obligation, whichever is less. However, if there is no current support obligation and the withholding is for arrearages only, withholding shall not exceed 15 percent of benefits payable under ORS 656.210 and 656.212 or the amount previously paid as current support, whichever is less;

(b) 25 percent of benefits payable to the obligor due to permanent total disability under ORS 656.206, permanent partial disability under ORS 656.214, or claims where other disposition is determined under ORS 656.236;

(c) 25 percent of benefits payable to the obligor in a disputed claim settlement under ORS 656.289 (4);

(d) When, under sections (2) and (3) of this rule, the obligor's income is not sufficient for the withholder to fully comply with each withholding order on the obligor's cases, the withholder shall withhold as follows:

(A) First, withhold the maximum amount allowable under either section (2) or (3) of this rule, whichever is applicable;

(B) If the total amount thus withheld is not sufficient to pay the current support due on all of that obligor's support cases for which a withholding order is in effect, each case shall receive a proportionate share of the total amount withheld. For each case, the withholder shall determine this amount by dividing the amount ordered as current monthly support on the case by the total combined amount ordered as current support on all of the obligor's support cases for which a withholding order is in effect, and then multiplying the resulting percentage by the total amount withheld. However, on any case where the benefits are payable due to temporary total disability under ORS 656.210 or temporary partial disability under ORS 656.212, this apportionment is limited to 25 percent of the benefit amount or the amount of the current monthly support obligation, whichever is less;

(C) If the amount withheld from the obligor's income is sufficient to pay the current support due on all cases, but is not enough to comply fully with the withholding order on all cases where past-due support is owed, the withholder shall:

- (i) Apply, to each case, the amount of support due for the current month;
- (ii) Apportion the remaining funds equally to each case where arrearages are owed. However, no case shall receive more than the total amount of current support and past-due support owed on that case at the time this distribution is made;
- (iii) On any case where the benefits are payable due to temporary total disability under ORS 656.210 or temporary partial disability under ORS 656.212 and withholding is for arrearages only, the apportionment is limited to 15 percent of the benefit amount or the amount of the last current monthly support obligation, whichever is less.

(D) On all Title IV-D cases, the withholder shall then forward the withheld amount to DHR, in compliance with subsection (10)(a) of this section.

(7) Notwithstanding any other provision of this rule, when withholding is only for arrearages assigned to the State of Oregon or another state, the Department of Human Resources (DHR) may set a lesser amount to be withheld if the obligor demonstrates that withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support, subject to the following:

(a) When an obligor contacts DHR or the appropriate enforcing agency, either orally or in writing, to seek a reduction in withholding under this section, or where DHR or the enforcing agency become aware of circumstances under which these provisions would apply, the enforcing agency shall proceed as specified in subsection (b) of this section if both of the following conditions exist:

(A) The order from which the obligor requests relief is for arrears only;

(B) All arrears under the order are assigned to the State of Oregon or another state, with none of the arrearages owed to a private party;

(b) If the conditions of subsection (a) of this section are met, any enforcing agency manager or supervisor may authorize a reduced order to withhold, consistent with the obligor's ability to pay.

(A) Any such reduced withholding is subject to review and modification in one year, or at any other time that the obligor's source of income, or financial or household circumstances, change to the extent that reduced withholding or the payment agreement are no longer appropriate. This provision applies specifically to cases where the obligor's financial situation changes, or where the obligor's duty to support other dependent children has ended.;

(B) In any case where DHR becomes aware of circumstances under which these provisions would apply, DHR shall advise the enforcing agency so that the enforcing agency may proceed as specified in this subsection.

(8) In any determination of an obligor's disposable income that is subject to withholding, the obligor may claim offsets against gross receipts for ordinary and necessary business expenses and taxes directly related to the income subject to withholding. The obligor's remaining income shall then be subject to withholding pursuant to the other provisions of this rule:

(a) The obligor has the burden of proving such claims and must therefore furnish verifiable business records or documents to support any offsets claimed. The obligor also has the burden of furnishing such records or documents in a timely manner, and DHR shall not refund to the obligor, on the basis of such claims, any amounts withheld that DHR has already disbursed to the obligee;

(b) The enforcing agency shall make allowance against the amount of income subject to withholding for the obligor's verifiable costs of doing business, including but not limited to:

(A) Equipment and supplies; and

(B) Paying the obligor's employees and subcontractors.

(9) An order to withhold income under this rule is not subject to the limitations for garnishment actions under ORS 23.185.

(10) If there is more than one order requiring withholding against the same obligor, such as may occur when an obligor has more than one support obligation, the withholder shall withhold the required amount on each order. However, the total amount withheld may not exceed the limitations of ORS 25.351 and of sections (2) and (3) of this rule.

(a) On any support case where the withholder is required to forward the amount withheld to DHR, the withholder shall do so with a notation identifying:

(A) The obligor by name;

(B) Each DHR support case number on which the withholding was required;

(C) The amount withheld for each case; and

(D) The date the withholding occurred.

(b) On any case where DHR receives a single combined payment from a withholder who has not specified the amount to be applied to each case, DHR shall distribute the payment as follows:

(A) First, pay to each case the amount of current monthly support due on that case for the month. If the amount withheld is not sufficient to pay the current support due on all cases, each case shall receive a proportionate share of the payment. DHR shall determine this this amount by:

(i) Dividing the amount ordered as current monthly support on each case by the total combined amount ordered as current support on all of the obligor's support cases for which a withholding order is in effect; and then,

(ii) Multiplying the resulting percentage by the total amount withheld.

(B) If the amount withheld from the obligor's income is sufficient to pay the current support due on all cases, but is not enough to comply fully with the withholding order on all cases where past-due support is owed, DHR shall:

(i) Distribute, to each case, the amount of support due for the current month.

(ii) Distribute an equal amount of the remaining funds to each case where arrearages are owed. However, no case shall receive more than the total amount of current support and past-due support owed on that case at the time this distribution is made.

Stat. Auth.: ORS 25.020, 25.311 - 25.370, 409.020, 411.060 & 656.234

Stats. Implemented: ORS 25.311 - 25.370

Hist.: AFS 73-1985(Temp), f. & ef. 12-3-85; AFS 32-1986, f. & ef. 4-1-86; AFS 38-1987, f. & ef. 8-18-87; AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; Renumbered from 461-35-050; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 28-1990(Temp), f. & cert. ef. 12-5-90; AFS 14-1991, f. & cert. ef. 7-15-91; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 12-1994, f. 6-28-94, cert. ef. 7-1-94; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 14-1996, f. 4-24-96, cert. ef. 5-1-96

461-195-0187

Withholder Responsibilities and Liability on Income Withholding Cases

(1) When a withholder receives an Order to Withhold Income pursuant to ORS 25.314 and OAR 461-195-0183, the withholder shall start withholding pursuant to ORS 25.355(1).

(2) On any case where the withholder is required to remit payments to the Department of Human Resources (DHR), the withholder:

(a) Shall indicate the obligor's name and DHR case number, and the date the income was withheld, for each payment remitted to DHR.

(b) May, when withholding income from more than one obligor for payment of support, combine amounts withheld from the different obligors into a single payment to DHR, provided that each such payment is accompanied by a list that:

(A) Provides the information required in subsection (a) of this section; and

(B) Identifies which portion of the combined payment is attributable to each obligor.

(3) If a withholder does not withhold support in any month when required to do so under an Order to Withhold Income, the withholder shall provide a written explanation of the reason for not withholding, pursuant to ORS 25.357:

(a) On any case where the withholder is required to send amounts withheld to DHR, the withholder shall send the written explanation to DHR;

(b) If the obligor is no longer employed by the withholder, the withholder may include, in the written explanation, the name and address of the obligor's new employer if known. The withholder is not liable to the obligor for such disclosure.

(4) The withholding order and the withholding required under the order remain in effect and binding upon the withholder until further notice from the court, the enforcing agency, or DHR, pursuant to ORS 25.359.

(5) Pursuant to ORS 25.363(1), no withholder who is served with an order to withhold under ORS 25.314 or OAR 461-195-0183, and who complies with the terms of the order, is liable for wrongful withholding to the obligor or to any other person claiming rights derived from the obligor.

(6) The withholder is liable for all amounts which the withholder fails to withhold or pay as required by the order to withhold, pursuant to ORS 25.363(2).

(7) An employer commits an unlawful employment practice by discriminating in any manner against an obligor because of the entry or service of an Order to Withhold Income, pursuant to ORS 25.363 (3).

Stat. Auth.: ORS 25.355, 25.357, 25.359, 25.363, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 7-1992(Temp), f. & cert. ef. 3-25-92; AFS 15-1992, f. & cert. ef. 6-18-92; AFS 19-1992(Temp), f. & cert. ef. 7-15-92; AFS 25-1992, f. 8-24-92, cert. ef. 9-1-92; AFS 7-1993(Temp), f. & cert. ef. 4-7-93; AFS 11-1993, f. & cert. ef. 6-17-93; AFS 7-1994, f. & cert. ef. 4-1-94

461-195-0190

Withholder Fee for Income Withholding Services

When any withholder is served with an Order to Withhold Income from a child support obligor for payment of current and/or past due child support, the withholder may also deduct from the obligor's income a monthly processing fee not to exceed five dollars (\$5), subject to ORS 25.351.

Stat. Auth.: ORS 25.351(3), 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 57-1985(Temp), f. & ef. 10-1-85; AFS 24-1986, f. & ef. 3-17-86; AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; Renumbered from 461-35-047; AFS 7-1994, f. & cert. ef. 4-1-94

461-195-0197

Wage or Income Withholding on Interstate Cases -- Miscellaneous Requirements

The purpose of this rule is to specify miscellaneous requirements of federal and state law regarding the collection of support through income withholding on interstate cases that involve Oregon and another state. The requirements

provided in this rule are in addition and supplemental to, and not in lieu of, all other requirements governing income withholding in ORS Chapter 25 and in OAR Chapter 461, Division 195:

(1) When filing a support order from another state for purposes of implementing wage or income withholding against an obligor in Oregon, the Oregon enforcing agency shall:

(a) Ensure that such filing is completed in a timely manner so as not to delay implementation of withholding beyond the timeframes established in section (2) of this rule;

(b) Upon locating an obligor and the obligor's employer, notify DHR in a timely manner so that DHR may provide appropriate notices as required under section (2) of this rule. The enforcing agency may notify DHR by entering the name and address of the obligor's employer onto DHR's automated child support system.

(2) On any case covered under section (1) of this rule, where the obligor is in Oregon, DHR or the enforcing agency shall:

(a) Within 15 calendar days of location of the obligor and the obligor's employer, send notice of withholding to the obligor, if appropriate, and provide the obligor with an opportunity to contest the withholding if appropriate, in accordance with OAR 461-195-0175 through 461-195-0179;

(b) Send an order to withhold income to the employer, in accordance with OAR 461-195-0183.

(3) On any case covered under section (1) of this rule, where the obligor is in Oregon, the enforcing agency shall notify the requesting state (where the custodial parent is receiving Title IV-D services) when the obligor is no longer employed in Oregon, and provide the name and address of the obligor and new employer when known.

(4) When the custodial parent is receiving Title IV-D services in Oregon, and the obligor is found to be employed in another state, the following provisions shall apply:

(a) Within 20 calendar days of determining that withholding is required on a particular case and, if appropriate, of receiving any information needed to carry out withholding, the Oregon enforcing agency shall notify the IV-D agency of the other state to implement interstate withholding;

(b) Such notice to the other state shall contain all information needed to carry out the withholding, including the amount requested to be withheld, a copy of the support order, and a statement of arrearages if appropriate.

Stat. Auth.: ORS 25.020, 25.311 - 25.370, 409.020, 411.060, 656.234 & 1995 Senate Bills 213 & 218

Stats. Implemented: ORS 25.020, 25.080, 25.311 - 25.370, 409.020 & 411.060

Hist.: AFS 4-1993, f. 2-24-93, cert. ef. 3-1-93; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95

461-195-0200

Support Enforcement by Methods Other Than Income Withholding

(1) Income withholding, pursuant to OAR 461-195-0175 through 461-195-0197, shall be the preferred method that Oregon enforcing agencies shall use to collect current and past due support, under Title IV-D of the Social Security Act, on cases where an Oregon agency has enforcement responsibility.

(2) On IV-D cases where an Oregon agency has enforcement responsibility, if the Department of Human Resources is not receiving the amount of current support due for each month plus payment toward any arrearage that exists on the case, the enforcing agency shall pursue additional enforcement actions as specified under this rule.

(a) For purposes of this section, "additional enforcement actions" means actions in addition to income withholding under any of the following circumstances:

(b) The enforcing agency shall pursue additional enforcement actions on any IV-D case where any of the following circumstances occurs:

(A) Collection by income withholding cannot be attained under OAR 461-195-0175 through 461-195-0197;

(B) Income withholding is collecting less than the amount of current support due for each month; or

(C) Income withholding is collecting the full amount of current support due for each month, but is collecting nothing toward arrearages on the case;

(D) No current support is owed, and income withholding is collecting nothing toward arrearages or the obligor is not paying a negotiated or agreed-upon amount toward arrearages.

(c) All such enforcement actions shall be in compliance with, and as appropriate under, state and federal law. The enforcing agency shall not initiate or take any action under this rule that is precluded or prohibited by state or federal law due to the circumstances of the individual case;

(d) The enforcing agency shall take such action within 30 calendar days of whichever of the following occurs later:

(A) An arrearage has occurred; and

(B) The enforcing agency has located the obligor, the obligor's employer, or other assets or sources of income, provided such information is sufficient to enable the next appropriate action on the case;

(e) If service of process is required before taking an enforcement action:

(A) Service must be completed or unsuccessful diligent attempts to serve process must be documented, and enforcement action must be initiated if process is served, no later than 60 calendar days of initially identifying an arrearage or of locating the obligor (or the obligor's employer, assets, or other sources of income), whichever occurs later;

(B) If a court action is necessary, the requirement to initiate enforcement action within no later than 60 calendar days is met if the enforcing agency has initiated action to docket the case with the court for a court hearing or action.

(f) The enforcing agency is not required to perform those "additional enforcement actions" that DHR already provides automatically for every Title IV-D case meeting specified criteria. Further, a IV-D case does not necessarily need to meet the criteria for "additional enforcement actions", under Section (2) of this rule, in order for DHR to automatically provide the enforcement methods under this subsection for every case meeting specified criteria. These enforcement methods include, but are not limited to:

(A) Interception of state and federal tax refunds, under OAR 461-195-0205 through 461-195-0220;

(B) Release of information to consumer credit reporting agencies, under OAR 461-195-0230.

(g) If any enforcement action specified under this rule, whether by itself or in combination with collections attained through income withholding, results in collection of current support each month plus payments toward reducing any arrearage that exists on a case, the enforcing agency is not required to pursue further additional enforcement actions on that case. However, the enforcing agency shall resume pursuing additional enforcement actions if any of the circumstances under Subsection (2)(b) of this rule subsequently occurs.

(3) The enforcing agency shall take additional enforcement action, under Section (2) of this rule, by attempting to determine if the obligor has any income, property, assets, or resources from which support can be collected.

(a) The enforcing agency shall attempt this determination by utilizing any one or more of the following:

- (A) Information about the obligor's location, employment, or other income or assets, that the enforcing agency obtains from the obligee or from any other person. The enforcing agency shall respond to the obligee, in writing, by telephone, or in person, within 30 days of ascertaining whether or not information submitted by the obligee, on the obligee's own initiative, was accurate or useable;
- (B) Information accessible or attainable through the computer system of the Department of Human Resources (DHR), or other electronic data sources available through DHR;
- (C) Information accessible or attainable through electronic data sources other than those accessible through DHR, to the extent readily available to the enforcing agency. This includes electronic data sources accessible through the Support Enforcement Division;
- (D) Discovery methods, including judgment debtor exams, financial disclosure exams, or written interrogatories, unless any of the following are true:
 - (i) The enforcing agency has not located the obligor, and is therefore not able to pursue such methods;
 - (ii) The obligee has not asserted to the enforcing agency, and/or the enforcing agency has no reason to suspect, that the obligor has specific and verifiable income, property, resources, or assets against which the enforcing agency may take effective action to collect support;
 - (iii) The enforcing agency has located or verified the obligor's income, property, assets, or resources through other means, or otherwise can do so, and therefore does not need to rely on discovery methods.
- (b) The enforcing agency shall enter narrative lines on the DHR computer system, according to instructions provided by DHR or SED, to document the following:
 - (A) The enforcing agency's efforts to determine or verify if the obligor has property, assets, or resources, against which the enforcing agency may take action to collect support;
 - (B) Actions the enforcing agency takes to collect support against such property, assets, or resources;
 - (c) When the obligor's address and employer is unknown, the enforcing agency may refer the obligor to DHR for inclusion in the "Most Wanted" list periodically compiled by DHR, provided the obligor meets the DHR criteria for such list.
- (4) When an enforcing agency determines under this rule that an obligor has income, property, assets, or resources against which enforcement action may be taken, the enforcing agency shall, in compliance with and as appropriate under other provisions of this rule and of state and federal law, take one or more of the following specific actions:
 - (a) Ask the court to require the obligor to post bond or security to ensure payment of support, unless the enforcing agency has determined that:
 - (A) Based on the experiences of the enforcing agency in its locality, a bond or security is not likely to be commercially available to the obligor for this purpose; or
 - (B) The obligor is legally and financially unable to pay the cost of a bond or security; or
 - (C) Such action cannot reasonably be expected to produce collections sufficient to justify the cost to the enforcing agency.
 - (D) Any funds the obligor has to purchase a bond would be better applied to requiring the obligor to make payment for current or past-due support. However, on cases where current support is owed to the obligee and not assigned to reimburse public assistance, the obligee must concur with this determination;

- (E) The obligor has taken action to purchase a bond or security without need for court action.
- (b) File liens against real property or personal property that the obligor owns in Oregon, to the extent that a lien does not already exist under Oregon law, or take other effective actions to collect support from the value of such property such as by obtaining a writ of garnishment, unless the enforcing agency has determined that:
 - (A) The obligor owns no property against which such action would be likely to produce a collection; or,
 - (B) Such action cannot reasonably be expected to produce collections sufficient to justify the cost to the enforcing agency.
- (c) Garnish or attach other assets, or resources of the obligor, unless the enforcing agency has determined that such action cannot reasonably be expected to produce collections sufficient to justify the cost to the enforcing agency. In cases where such action will result in additional taxes or penalties to the obligor, the enforcing agency may negotiate with the obligor to determine an amount the obligor will need to retain to pay such additional taxes or penalties;
- (d) Pursue suspension of any occupational license the obligor may have, to the extent permissible under state law and rules;
- (e) Prosecute the obligor for contempt of court, subject to section (5) of this rule;
- (f) Prosecute the obligor for criminal non-support, subject to section (5) of this rule;
- (g) Refer the obligor for federal criminal prosecution under the Interstate Child Support Recovery Act, subject to section (5) of this rule.
- (5) Prosecution for contempt of court or for criminal non-support, or referral of obligors for federal criminal prosecution under the Interstate Child Support Recovery Act, is subject to the prosecutorial discretion of the enforcing agency.

Stat. Auth.: ORS 25.080, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 27-1994, f. & cert. ef. 11-10-94

461-195-0205

Collection of Delinquent Support Obligations Through the Oregon Department of Revenue

- (1) The Adult and Family Services Division's Child Support Accounting Unit and its contract agencies, the Support Enforcement Division of the Oregon Department of Justice and the county district attorneys, may claim Oregon tax refunds otherwise due to be paid to an obligor, to collect:
 - (a) Delinquent support obligations, when the obligation has been assigned for reimbursement of public assistance or is due the obligee;
 - (b) Unpaid award amounts from any judgment entered against the obligor for birth expenses or for the cost of blood tests or genetic tests to establish a child's paternity.
- (2) The Child Support Accounting Unit or the Support Enforcement Division will file such claims with the Oregon Department of Revenue according to rules and procedures established by the Oregon Department of Revenue. For cases being enforced by a county district attorney, the Child Support Accounting Unit or the Support Enforcement Division will file such claims on behalf of the district attorney.

(3) Referral of delinquent support payments shall be a liquidated claim, debt, or account established by any of the following:

(a) A court judgment or administrative order;

(b) A Confession of Judgment; or

(c) A written agreement between the obligor/debtor and an agency of the state.

(4) The Child Support Accounting Unit or the Support Enforcement Division shall not refer any case where the Child Support Accounting Unit's records indicate that one or more of the following is applicable:

(a) The claim amount is less than \$25;

(b) The obligor has filed for bankruptcy, as defined by federal bankruptcy code, unless the bankruptcy claim has been resolved and the Child Support Accounting Unit, the Support Enforcement Division or the district attorney have legal authority to proceed with collection;

(c) The obligee is receiving or has received welfare-related assistance and has claimed "good cause" for not cooperating with efforts to establish or enforce support, and the Adult and Family Services Division branch office has either determined that "good cause" exists or is in the process of making a determination.

(5) The Child Support Accounting Unit shall apply tax refunds recovered by this process to:

(a) The state and federal government for assistance paid to or on behalf of an obligee if assistance is being provided at the time the refund is intercepted;

(b) The delinquent support portion of the obligor's support obligation.

(6) At any time any refund is claimed, the Department of Revenue or the Support Enforcement Division as appropriate shall send by regular mail written notice to the obligor and obligee of the intention to apply the tax refund to the obligor's delinquent account. Such notice shall advise the obligor and obligee of the right to an administrative hearing regarding this action:

(a) The obligor and/or obligee, within 30 days from the date of this notice, may request an administrative hearing before the Adult and Family Services Division as specified in the notice;

(b) The request for hearing must be in writing.

(7) No hearing shall be held if the obligor or obligee, after having been given due notice of rights to a hearing, has failed to exercise such rights in a timely manner as specified in the notice.

(8) No issues may be considered at the administrative hearing that have been litigated previously or where the obligor failed to exercise rights to appear and be heard or to appeal a decision which resulted in the accrual of the arrearage.

Stat. Auth.: 45 CFR 303.102, ORS 25.610, 25.620, 25.020, 25.080, 409.020 & 411.060

Stats. Implemented: ORS 25.610

Hist.: AFS 13-1978, f. & ef. 4-4-78; AFS 23-1987(Temp), f. 6-19-87, ef. 7-1-87; AFS 60-1987, f. & ef. 11-4-87; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-004; AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90; AFS 30-1995, f. 11-6-95, cert. ef. 11-15-95; AFS 7-1997, f. & cert. ef. 6-13-97

461-195-0210

Collection of Delinquent Support Obligations Through the Internal Revenue Service

- (1) The Adult and Family Services Division's Child Support Accounting Unit and its contract agencies, the Support Enforcement Division of the Oregon Department of Justice and the county district attorneys, may claim federal tax refunds otherwise due to be paid to an obligor to collect delinquent support obligations, when the obligation has been assigned for reimbursement of public assistance or is due the obligee;
- (2) The Child Support Accounting Unit or the Support Enforcement Division will file such claims with the Internal Revenue Service according to rules and procedures established by the Internal Revenue Service. For cases being enforced by a county district attorney, the Child Support Accounting Unit or the Support Enforcement Division will file such claims on behalf of the district attorney.
- (3) Referral of delinquent support payments shall be a liquidated claim, debt, or account established by any of the following:
 - (a) A court judgment or administrative order;
 - (b) A Confession of Judgment; or
 - (c) A written agreement between the obligor/debtor and an agency of the state.
- (4) The Child Support Accounting Unit or the Support Enforcement Division shall not refer any case where the Child Support Accounting Unit's records indicate that one or more of the following is applicable:
 - (a) For a public assistance related case, the claim amount is less than \$150 and the support amount is less than three months delinquent;
 - (b) For a nonpublic assistance related case, the claim amount is less than \$500;
 - (c) The obligor has filed for bankruptcy, as defined by federal bankruptcy code, unless the bankruptcy claim has been resolved and the Child Support Accounting Unit, the Support Enforcement Division or the district attorney have legal authority to proceed with collection;
 - (d) The obligee is receiving or has received welfare-related assistance and has claimed "good cause" for not cooperating with efforts to establish or enforce support, and the Adult and Family Services Division branch office has either determined that "good cause" exists or is in the process of making a determination.
- (5) The Child Support Accounting Unit shall apply tax refunds recovered by this process to:
 - (a) The state and federal government for assistance paid to or on behalf of an obligee if assistance is being provided at the time the refund is intercepted;
 - (b) The delinquent support portion of the obligor's support obligation.
- (6) At any time a delinquent support obligation is referred to the Internal Revenue Service, the Support Enforcement Division shall send by regular mail, written notice to the obligor and obligee of the intent to claim the tax refund and apply it to the obligor's delinquent account. Such notice shall advise the obligor and obligee of the right to an administrative review regarding this action:
 - (a) The obligor or obligee may request an administrative review as specified in the notice;
 - (b) The only issues that may be considered in the review are:
 - (A) Whether the obligor is the person who owes the support balance as indicated by the official Child Support Accounting Unit support record; or

(B) Whether the support balance indicated by the official Child Support Accounting Unit support record is correct.

(7) Upon receipt of the request for review, the enforcing agency will schedule the review and notify the obligor and obligee of the date, time and place of the review. The decision made in the review and the basis for this decision shall be recorded in writing and mailed to the obligor and obligee.

Stat. Auth.: 45 CFR 303.72, ORS 25.020, 25.080, 409.020 & 411.060

Stats. Implemented: ORS 25.610

Hist.: AFS 7-1997, f. & cert. ef. 6-13-97; AFS 15-1997(Temp), f. & cert. ef. 9-2-97

[ED. NOTE: The text of Temporary Rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

461-195-0215

Fees and Proration for Processing Tax Refund Intercept for Support Payments

(1) When the AFS Child Support Accounting Unit (CSAU) collects past-due child support through the state or federal tax refund intercept programs, CSAU shall credit the obligor's support account for the full amount of the intercepted refund. "Full amount" means the actual amount of the intercepted refund before the Department of Revenue, the Internal Revenue Service, or any other authorized agency, deducts fees.

(2) CSAU shall credit the obligor's account at the time CSAU actually receives the intercept from the Department of Revenue or the Internal Revenue Service.

(3) When the refund is collected on behalf of a non-ADC obligee, any fee charged by the Department of Revenue or the Internal Revenue Service will be deducted before distribution to the obligee from the intercepted refund CSAU actually receives as follows:

(a) If the entire collection is due the obligee, CSAU will deduct the fee before distributing the collection to the obligee;

(b) If past-due support amounts are due and retained by the State of Oregon from the collected refund, no fee will be deducted from any refund distributed to the obligee;

(c) When the refund collected must be distributed to multiple non-ADC cases, CSAU will pro-rate the fee among the obligees before distributing the collection to the obligees.

(4) If an obligor has more than one support account, CSAU shall divide the collection among all of the obligor's accounts on which the intercepted refund was claimed, as follows:

(a) Federal tax refund collections shall be divided in the following sequence:

(A) Pay all past-due support amounts that have been assigned to the State of Oregon to repay public assistance previously granted. If the obligor owes assigned past-due support on more than one account, and the total amount assigned is more than the amount of the collection, CSAU shall determine the share for each account as follows:

(i) Divide the amount of assigned past-due support on each account by the combined amount of assigned past-due support on all the obligor's accounts for which the tax refund was intercepted; and then,

(ii) Multiply each such quotient by the total amount of the collection.

(B) Credit, to each account for which the tax refund was intercepted, a share of the amount collected that was not used to reimburse the State of Oregon for public assistance previously granted. CSAU shall determine the share for each

account by:

- (i) Dividing the court-ordered monthly amount for each account by the combined amount ordered for all the affected accounts; and then,
- (ii) Multiplying each such quotient by the total amount to be distributed to all obligees after reimbursement to the State of Oregon under paragraph (4)(a)(A) of this rule.

(b) State tax refunds intercepted shall be applied by crediting, to each account for which the tax refund was intercepted, a share of the amount collected. CSAU shall determine the share for each account by:

- (A) Dividing the court-ordered monthly amount for each account by the combined amount ordered for all the affected accounts; and then,
- (B) Multiplying each such quotient by the total amount to be distributed.

(5) CSAU shall apply intercepted tax refunds for individual cases as follows:

(a) Federal tax refund collections shall be applied in the following sequence:

- (A) Pay any arrearage amount that has been assigned to the State of Oregon to pay back public assistance previously granted;
- (B) Pay any portion of the intercepted amount remaining after such reimbursement to the obligee.

(b) State tax refunds intercepted shall be applied in the following sequence:

- (A) Pay the obligee for the amount of past-due support that has accrued since the most recent ending date of public assistance that was granted for any family member for whom the obligor owed support;
- (B) Pay any remaining portion of the intercepted amount to the State of Oregon, for payment of past-due support assigned to the state;
- (C) Pay any remaining portion to the obligee for any remaining past-due amount owed.

Stat. Auth.: ORS 25.610, 25.620, 292.250, 409.020, 409.050, 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.610, 25.620, 409.020 & 411.060

Hist.: AFS 31-1986, f. & ef. 4-1-86; AFS 11-1988, f. 2-9-88, cert. ef. 3-1-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-053; AFS 8-1994, 4-12-94, cert. ef. 5-1-94

461-195-0220

Refund of Improper Tax Refund Collection

- (1) Whenever a federal or Oregon tax refund owed to a support obligor has been withheld to pay support arrears and that withholding was made in error or overcollects the amount owed, the Adult and Family Services Division's Child Support Accounting Unit shall refund the amount withheld in error or overcollected.
- (2) The Child Support Accounting Unit may authorize the amount withheld, or any part thereof, to be refunded to the obligor by means of an advance payment from the Adult and Family Services Division's Administrative Suspense Checking Account. Such advance payment shall be made:
 - (a) Immediately when the amount withheld by the taxing agency was improperly withheld as a result of an error by the

- Adult and Family Services Division, the Support Enforcement Division of the Department of Justice or the district attorney, and the obligor provides a copy of the notice that the tax refund was being withheld; or
- (b) The child support arrears certified for purposes of tax refund intercept no longer exist or are less than the amount withheld from the tax refund; and
 - (c) Thirty (30) days have elapsed since the date of the notice to the obligor that the tax refund was being withheld and the Adult and Family Services Division has not received the obligor's tax refund from the taxing agency; and
 - (d) The obligor provides a copy of that notice to the Child Support Accounting Unit, the Support Enforcement Division, or the district attorney.
- (3) When the Child Support Accounting Unit has made an advance payment of a refund to the obligor it will, upon receipt of the tax refund from the taxing agency, retain that refund up to the amount refunded to the obligor to reimburse the Administrative Suspense Checking Account.
- (4) If the Child Support Accounting Unit has already forwarded to the obligee, part or all of the amount withheld, the Child Support Accounting Unit may establish an overpayment against the obligee for that amount, not to exceed the amount refunded to the obligor, pursuant to OAR 461-195-0265.

Stat. Auth.: ORS 25.020, 25.610, 409.020 & 411.060

Stats. Implemented: ORS 25.610

Hist.: AFS 35-1982(Temp), f. & ef. 4-27-82; AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-030; AFS 26-1994, f. & cert. ef. 11-3-94; AFS 7-1997, f. & cert. ef. 6-13-97

461-195-0225

Internal Revenue Service Full Collection Services

- (1) For the purpose of this rule, Regional Representative means the Region X office of the Department of Health & Human Services, Administration for Children and Families, Child Support Enforcement.
- (2) The District Attorneys, or the Support Enforcement Division, whichever entity is assigned responsibility for providing enforcement services, may request Internal Revenue Service Full Collection Service on behalf of a given case.
- (3) For a case to be eligible for Full Collection Service, all of the following conditions must apply:
 - (a) There shall be a court or administrative order for payment of child support;
 - (b) The amount to be collected under the support order shall be at least \$750 in arrears;
 - (c) At least six months shall have elapsed since the case was last submitted for Full Collection Service;
 - (d) The enforcing entity, the obligee, or the obligee's representative shall have made reasonable efforts to collect the support by using the state's standard collection procedures. These actions may include all of the following when deemed reasonable and cost-effective:
 - (A) Orders to withhold income;
 - (B) Orders to withhold Unemployment Compensation or Worker's Compensation benefits;
 - (C) Garnishments against liquid assets such as bank accounts, inheritance assets, lottery winnings, or any other liquid

assets that may be garnished under state law;

(D) Interception of federal and state tax refunds;

(E) Credit bureau reporting;

(F) Initiating reciprocal support enforcement action with other states;

(G) Filing liens against real property the obligor may own in order to collect past-due support;

(H) Suspension of occupational license(s) the obligor may have to the extent permissible under state law and rules;

(I) Discovery methods, including judgment debtor exams, financial disclosure exams, or written interrogatories;

(J) Prosecution for contempt of court or criminal nonsupport.

(4) All requests shall be submitted in the manner and form prescribed by the Regional Representative and must include the following:

(a) Sufficient information to identify the obligor, including the obligor's name and social security number and, the obligor's home address and place of employment, including the source of this information and the date this information was last verified.

(b) A copy of all court or administrative orders for support;

(c) A statement of the amount owed under the support order(s), including a statement of whether the amount is in lieu of, or in addition to, amounts previously referred to the Internal Revenue Service for collection;

(d) A statement that the enforcing entity, the obligee, or the obligee's representative has made reasonable efforts to collect the amount owed using the state's standard collection procedures. The statement shall describe the collection actions that have been taken, why they failed, and why further state action would be unproductive;

(e) The dates of any previous requests for referral of the case to the Internal Revenue Service for collection;

(f) A statement that the Department of Human Resources or the enforcing agency agrees to reimburse the Secretary of the Treasury for the established fee for paying the costs of collection;

(g) A statement that the enforcing entity has reason to believe that the obligor has assets that the Secretary of the Treasury might levy to collect the support, including a statement of the nature and location of the assets, if known.

(5) Each request for Full Collection Service will be reviewed by the Regional Representative to determine whether it meets federal requirements. The enforcing entity shall cooperate with the Regional Representative in attempting to correct any deficiencies.

(6) The enforcing entity shall immediately notify the Regional Representative of the following changes in case status:

(a) The amount due;

(b) The nature or location of the obligor's assets;

(c) The address of the obligor.

(7) Either the Department of Human Resources or the enforcing entity shall be responsible for paying the fee established under subsection (4)(f) of this rule subject to the following conditions regarding the amount certified under subsection (4)(c) of this rule:

(a) If the total amount has been assigned to reimburse Aid to Dependent Children, the Department of Human Resources shall pay the fee;

(b) If the total amount certified is owed to the obligee, the Department of Human Resources shall pay the fee on behalf of the obligee;

(c) If part of the total amount has been assigned to reimburse Aid to Dependent Children and the remaining portion is owed to the obligee, the Department of Human Resources shall pay the fee on behalf of the obligee.

(8) The Department of Human Resources shall recover the fee amount it has paid on any case under subsections (7)(b) or (c) of this rule, from the amount of any collection subsequently attained by the Internal Revenue Service and forwarded to the Department of Human Resources in accordance with section (9) of this rule.

(9) The Department of Human Resources shall credit the obligor's support account for the full amount of any collection received from the Internal Revenue Service. The Department of Human Resources shall then distribute all amounts collected under the Full Collection Service as follows:

(a) If none of the obligor's total arrearage has been assigned to reimburse Aid to Dependent Children, the Department of Human Resources shall reimburse itself for any Internal Revenue Service fee the Department of Human Resources has prepaid under section (7) of this rule. The Department of Human Resources shall then pay the balance of the amount collected to the obligee;

(b) If some or all of the obligor's total arrearage has been assigned to reimburse Aid to Dependent Children and the obligee is receiving Aid to Dependent Children when the Department of Human Resources receives the collection from the Internal Revenue Service, the Department of Human Resources shall distribute the collection in the following sequential order:

(A) First reimburse Aid to Dependent Children up to the amount of past-due support assigned for reimbursement of Aid to Dependent Children; and

(B) Pay any remaining portion of the collection to the obligee.

(c) If some or all of the obligor's total arrearage has been assigned to reimburse Aid to Dependent Children and the obligee is not receiving Aid to Dependent Children when the Department of Human Resources receives the collection from the Internal Revenue Service, the Department of Human Resources shall:

(A) Reimburse itself for any Internal Revenue Service fee the Department of Human Resources has prepaid under section (7) of this rule; and,

(B) Distribute the balance of the amount collected in accordance with the sequence established in Oregon Administrative Rule 461-195-0248.

Stat. Auth.: ORS 25.020, 25.080, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 31-1989, f. 6-6-89, cert. ef. 6-9-89; AFS 51-1989, f. 8-25-89, cert. ef. 9-1-89; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-655; AFS 11-1990, f. 3-27-90, cert. ef. 4-1-90; AFS 20-1996, f. 5-24-96, cert. ef. 6-1-96

461-195-0230

Consumer Credit Reporting Agencies

(1) The Adult and Family Services Division shall enter into agreements with consumer credit reporting agencies under

which the Child Support Program shall provide such agencies with the names of absent parents who owe past due support and shall indicate the specific amount each obligor owes. Under these agreements, the Child Support Program shall provide such information:

(a) Whether or not the agency has requested information on any specific obligor; and,

(b) On a recurring or periodic basis, such as monthly.

(2) Before providing the agency with information on any obligor, the Child Support Program shall notify the obligor and obligee of the Child Support Program's intent to report the obligor's support balance to the consumer credit reporting agencies. The Child Support Program shall send the notice to the obligor's/obligee's last known address. The notice shall:

(a) Indicate the balance that the Child Support Program proposes to report to the consumer credit reporting agencies;

(b) Advise the obligor and obligee of the right to contest the accuracy of the information within 30 calendar days of the date the Child Support Program mailed the notice. The notice shall explain the process for contesting, and shall advise that objections must be in writing;

(c) Advise the obligor and obligee that the Child Support Program may report the current balance to the consumer credit reporting agencies on a recurring basis, without sending further notice to the obligor and obligee.

(3) If the obligor or obligee does not contest the balance within the allowed 30 day period, the Child Support Program shall release the information to the consumer credit reporting agencies.

(4) If the obligor or obligee contests the balance indicated in the notice:

(a) The Child Support Program may inform the consumer credit reporting agencies of that portion of the balance which is uncontested and note the additional balance which is being contested;

(b) The Child Support Program shall conduct an administrative review on the case and shall mail the results to the obligor and obligee as soon as the review is complete;

(c) If either the obligor or obligee disagrees with the results of the administrative review, then either the obligor or obligee may at any time, request the court of appropriate jurisdiction to review the balance on the support case.

(5) After 10 days have elapsed from the date the Child Support Program mailed the results of the administrative review as required under subsection (4)(b) of this rule, the Child Support Program may notify the consumer credit reporting agencies of the correct arrearage amount resulting from the review.

(6) If the court of appropriate jurisdiction determines the balance owed, the Child Support Program shall send the court's findings to the consumer credit reporting agencies 10 days after receiving a copy of the final order.

(7) When consumer credit reporting agencies ask the Child Support Program for information regarding the balance an obligor owes on a support case, the Child Support Program may provide available information after complying with the requirements of sections (1) through (6) of this rule. The Child Support Program shall not charge the requesting agency a fee for this information.

(8) The Child Support Program shall refer to the consumer credit reporting agencies, the name and support balance of all obligors who meet the criteria of sections (1) or (7) of this rule unless:

(a) The obligor pays the support balance in full; or

(b) The obligor is not the person who owes the child support balance indicated by the Child Support Program.

Stat. Auth.: ORS 25.020, 25.650, 409.020, 411.060 & 416.410

Stats. Implemented: ORS 25.020, 25.080, 25.650, 409.020 & 411.060

Hist.: AFS 79-1985(Temp), f. & ef. 12-26-85; AFS 22-1986, f. & ef. 3-4-86; AFS 12-1989, f. 3-27-89, cert. ef. 4-1-89; Renumbered from 461-35-051; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-670; AFS 11-1990, f. 3-27-90, cert. ef. 4-1-90; AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90; AFS 7-1996, f. 2-22-96, cert. ef. 4-1-96

461-195-0233

Occupational, Drivers and, Oregon Liquor Control and Recreational Licensing

(1) For the purposes of this rule the following definitions shall apply:

(a) "License" means any of the licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driving privileges granted by the Department of Transportation under ORS chapter 807 which includes all driving licenses and permits, and all hunting and fishing licenses and tags issued by the Oregon Department of Fish and Wildlife;

(b) "Enforcement entity" means either the Support Enforcement Division of the Department of Justice or the District Attorney operating a child support enforcement program under contract with DHR;

(c) "Administrative review" means a review of the obligor's objection to proposed action under this rule performed by an enforcement entity to determine that:

(A) The arrearage exceeds the threshold; and/or

(B) The licensee is the obligor; and/or

(C) No previous payment agreement has been made and is still valid; and/or

(D) That an income withholding order is in place and producing regular payments; and/or

(E) That the obligor has made payments in an amount greater than the monthly support amount for the three months previous to selection of the case and that those payments were not as a result of a garnishment, tax offset or some other enforcement action; and/or

(F) That the licensee is not ordered to pay current support payments.

(2) This rule shall govern the process for suspending any license as defined in subsection (1)(a) of this rule of any obligor in a child support case in which there is a judgment to pay current support and records are maintained by DHR; who owes over \$2,500 in past-due child support or whose support arrearage is equal to at least three times the current monthly child support obligation, whichever is greater, subject to the provisions herein.

(3) Cases that qualify for initiation of the process described in this rule will be identified by data matches and terminal access with license issuing entities, and by information received from other sources. Information from other sources shall be verified with the licensing agency. The SED Enforcement Branch shall be the liaison with the licensing agencies. Other enforcement entities shall verify issuance of licenses to individuals through the SED Enforcement Branch when those licenses have been identified by means other than data match or terminal access.

(4) If any of the following conditions are found, the enforcement entity will take no further action under this rule until such a time as the condition no longer exists:

(a) The case is an arrears only case;

- (b) The child support arrearage is less than the standard set in subsection (2) of this rule, excluding any and all spousal support;
 - (c) The obligor has previously entered into a payment agreement and is in compliance with the agreement;
 - (d) There is income withholding producing regular payments for the case and all of the obligor's income is subject to income withholding under ORS 25.311-.370;
 - (e) The obligor has made payments for the prior three months that have been for an amount greater than current support each month. These payments shall not have been as a result of garnishment, tax offset or any non-income withholding enforcement action.
- (5) If the enforcement entity determines that none of the conditions in subsection (4) of this rule applies or no longer applies, the enforcement entity may initiate action under this rule. The enforcement entity may use the process described in this rule as one of several enforcement options available and may exercise discretion to optimize collection potential in individual cases. The enforcement entity shall prioritize this enforcement option in decision making based on availability and application of other enforcement options and available staff resources.
- (6) If the enforcement entity determines that the case meets the criteria for action under this rule and decides to proceed, the enforcement entity will initiate two notices to the obligor. One notice will be sent to the address of record of the issuing agency, and a second notice to the obligor's address of record on DHR's child support file. Both notices will be sent to the obligor by regular mail and will include a form to contest the suspension of the license. If the address of record maintained by DHR and the issuing agency are the same, the enforcement entity may send only one copy of the notice to suspend and the accompanying forms. The obligee shall receive a copy of the notice and forms sent to the obligor. The obligee's copy shall be sent by regular mail.
- (7) The content of notices in subsection (6) of this rule shall contain the following information:
- (a) The specific license(s) subject to suspension and a statement that other licenses may be subject to suspension;
 - (b) The name of the person whose license is subject to suspension, and social security number, if available, and date of birth, if known;
 - (c) The child support case number or numbers of the person subject to suspension;
 - (d) The amount of the arrearage and amount of the current child support obligation;
 - (e) The procedure for contesting the suspension and the bases for contesting the suspension. The only bases for contesting the suspension are:
 - (A) The child support arrears are less than the standard set in subsection (2) of this rule; or
 - (B) There is mistake in identity of the obligor; or
 - (C) The obligor is in compliance with a previous payment agreement as provided by ORS 25.750 to 25.783; or
 - (f) A statement that the obligor may enter into a written payment agreement, compliance with which shall preclude suspension of the license. The obligor has 30 days from the date of the notice to contact the enforcement entity about entering into a written payment agreement. The payment agreement must be entered into within 30 days of the obligor's contact with the enforcement entity.
 - (g) A statement that the enforcement entity may make a demand upon the obligor to furnish sufficient income information to determine an agreement amount and that failure to provide sufficient income information will result in license suspension.

(h) A statement that the obligor has 30 days from the date of the notice in order to contest the suspension by requesting an administrative review in writing on a form included with the notice.

(i) A statement that failure to contact the enforcement entity within 30 days of receiving the notice specified in this subsection and entry into a written agreement within 30 days of contacting the enforcement entity, or to request an administrative review within 30 days of receiving the notice, shall result in notification to the issuing agency to suspend the license.

(8) Any agreement under subsection (7)(f) of this rule must:

(a) Be in writing and signed by the obligor;

(b) Specify the due date for payments. Enforcement entities may negotiate a due date other than the due date on the DHR's child support computer file;

(c) Assume Oregon minimum wage for the obligor in determining income level if the obligor claims income in an amount less than minimum wage and no evidence is found that the obligor has income in an amount greater than Oregon minimum wage;

(d) State the amount of the payment. If the obligor has only one child support case the payment amount shall be 120% of the current support amount, unless the provisions of subsection (10) of this rule apply. If the obligor has more than one child support case, the amount of the payment shall be the amount that could be obtained from an income withholding order pursuant to OAR 461-195-0195 assuming all cases would be subject to such income withholding;

(e) State that the agreement may be amended if there is a change in the amount of current child support;

(f) State that the agreement may be amended if there is a change in income which would change the agreement amount per the calculations in subsection (8)(d) of this rule;

(g) State that the agreement is terminated if the obligor fails to comply with the terms of the agreement;

(h) State that failure to comply with terms of the agreement will result in notification to the issuing agency to suspend the license;

(i) State that the payment agreement does not preclude other enforcement actions to collect current child support and arrears, including, but not limited, to income withholding, and state and federal income tax offset;

(j) Include a statement that the obligor is required to notify the enforcement entity within 10 days when there is a change in employment;

(k) State that information voluntarily provided may be used in other enforcement actions, including contempt actions.

(9) Any agreement made pursuant to this rule may be voided by the enforcement entity if either subsections (9)(a) or (b) of this rule apply. If an agreement has been so voided, the enforcement entity shall begin the process of entering into a new agreement.

(a) The income of the licensee/obligor changes; or

(b) The licensee/obligor has underreported income in establishment of the agreement.

(10) Under the following circumstances, an exception to the requirements of subsection (8)(d) of this rule may be made if the obligor claims a hardship. If the obligor claims a hardship and all of the conditions are met for this exception, the enforcement entity shall make an exception and limit the maximum amount of the payment agreement to 100 percent of the current support amount for the case if the obligor has only one child support case. If the obligor has multiple child support cases the enforcement entity may limit the amount of the payment agreement to the lesser amount of 100% of

the current support amount or that case's prorata share of 50 percent of disposable earnings based on amounts of monthly support obligations per case. The conditions and time frames for exceptions are:

(a) The obligor requests a periodic review and modification or a substantial change in circumstance modification under the provisions of OAR 461-195-0072 and modification and is. This exception shall terminate after the enforcement entity finishes the review and modification process. If the exception is granted pending the obligor's request for a periodic or substantial change in circumstances review and modification and the obligor has completed and returned the necessary paperwork to the appropriate enforcement entity within ten days, the exception may be terminated.

(b) All other hardship periods shall terminate after a three month period. These hardships may be granted for temporary conditions that limit an obligor's ability to make support payments.

(c) Enforcement entities may withdraw a notice to suspend under this rule when the obligor has a hardship that will exist for a period longer than three months but does not qualify the obligor for a change in circumstance modification of the support order. Enforcement entities may reinstate action under this rule when such hardship conditions no longer exist.

(11) The enforcement entity shall provide notice to the obligee of any payment agreement entered into by sending the obligee a copy of the payment agreement.

(12) If the enforcement entity determines that the suspension of the license should occur, both the obligee and the obligor shall receive written notice of such determination. The notice will include the following:

(a) The basis for the determination;

(b) The right to appeal the determination and a form on which to make the appeal;

(c) The time limit for making an appeal is 14 days;

(d) That if no appeal of the suspension is received within 14 days, the licensing agency will be notified to suspend the license immediately.

(13) An appeal of the determination in subsection (12) of this rule shall be to an Employment Department hearing officer and the suspension of the license is stayed pending the decision of the hearing officer. The only bases for an appeal are:

(a) There is a mistake in the amount of the arrearage and the arrearage balance is less than the threshold for initiation of action under this rule; or

(b) A mistake in identity of the obligor or;

(c) That the obligor has previously entered into an agreement and is in compliance with that agreement or.

(14) If the obligor fails to enter into a payment agreement or fails to appeal the determination within the time period allowed, or if the hearing officer's order supports the suspension of the license, the enforcement entity shall send a notice to the issuing agency to suspend the license. A copy of this notice shall be sent to the obligor and obligee by regular mail.

(15) The notice to the issuing agency to suspend the license shall contain the following:

(a) A statement that a child support case record is being maintained by DHR.

(b) A statement that the holder of the license is in arrears in excess of \$2,500 or three times the current monthly support amount, whichever is greater, and either:

(A) The holder has not entered into a payment

agreement; or

(B) The holder is not in compliance with a payment agreement.

(16) At any time after suspension of the license, the obligor may request that the enforcement entity make a review to determine if the condition(s) that resulted in the suspension continues to exist. The enforcement entity will review the suspension and notify the issuing agency if it is determined that the license may be reinstated, contingent upon the requirements of the issuing agency, when any of the following conditions are met:

(a) There is no longer a current child support order; or

(b) The arrears are less than the threshold for suspension; or

(c) There is no longer a IV-D case; or

(d) The obligor has entered into a payment agreement and is in compliance with the terms of the payment agreement.

(17) In the event that an obligor has more than one child support case, DHR will determine and assign a single enforcement entity that shall be responsible for services relating to that obligor under this rule. All other enforcement services shall be provided by the enforcement entities otherwise assigned to the obligor's case(s).

Stat. Auth.: ORS 25.080, 25.750 - 25.783, 409.20, 411.60 & 1997 OL, Ch. 746

Stats. Implemented: ORS 25.750 - 25.783 & 1997 OL, Ch. 746

Hist.: AFS 11-1994, f. & cert. ef. 6-3-94; AFS 22-1994, f. 9-27-94, cert. ef. 10-1-94; AFS 26-1995, f. 10-20-95, cert. ef. 10-23-95; AFS 18-1996, f. & cert. ef. 5-10-96; AFS 37-1996, f. & cert. ef. 11-20-96; AFS 21-1997, f. & cert. ef. 11-7-97

461-195-0235

Liens Against Real and Personal Property

(1) A judgment for support constitutes a lien on real property as provided for in ORS Chapter 18.

(2) Whenever there is a judgment for unpaid support and the Support Enforcement Division (SED) or the district attorney (DA) learns that an obligor has assets, then SED or the DA may cause a lien to be created on any personal property owned by the obligor. Additionally, the following criteria must exist:

(a) The fair market value of the assets, after deduction of any pre-existing security, interest, liens or encumbrances, are sufficient to make processing of the lien cost effective;

(b) The property is not exempt from lien laws under ORS Chapter 23.

(3) SED or the DA shall not cause a lien to be created on any personal property owned by an obligor whenever the criteria set forth in section (2) of this rule do not exist or whenever:

(a) The obligor's payment efforts to reduce the arrearage amount are acceptable to SED or the DA;

(b) SED or the DA determines other more effective methods of enforcement are appropriate;

(c) The obligor qualifies for exemption from support enforcement activity, including exemption from placement of liens, as a person receiving general or public assistance in his/her own behalf, in accordance with ORS 416.410(3); or

(d) A court of appropriate jurisdiction has ordered that the obligor be exempted from referral due to hardship circumstances. The obligor must notify the obligee and the enforcing agency when filing a claim for hardship exemption

with a court.

(4) SED or the DA shall follow the procedures set forth in ORS 25.670 whenever a determination to cause a lien to be created is made.

(5) Before foreclosing on a lien on as provided under ORS Chapters 25 and 88, SED or the DA should consider the following:

- (a) Are there other, more cost effective ways to handle the case; and
- (b) Would foreclosure of the lien in any way affect the obligor's ability to pay the child obligation.

Stat. Auth.: ORS 18.320 - 18.425, 23.030 - 23.730, 25.080, 25.210, 25.670 - 25.690, 88.010 - 88.720, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 25.670 - 25.690, 409.020 & 411.060

Hist.: AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90

461-195-0237

Posting Security Bond or Other Guarantee of Payment of Overdue Support

(1) Whenever there is a judgment for unpaid support and a contempt proceeding has been initiated, the Support Enforcement Division (SED) or the district attorney (DA) shall ask the court to require the obligor to post security, bond, or some other guarantee to secure payment of the overdue support if the following criteria also exist:

- (a) The obligor has a poor payment history;
- (b) SED or the DA learns that an obligor has assets which exceed the amount of the support arrearage and that arrearage cannot be reached by any other means.

(2) SED or the DA, as appropriate, shall include in the Notice to Show Cause, a section notifying the obligor of the intent to ask the court for security, bond, or some other guarantee of payment. This statement shall constitute advance notice to the obligor of such intent and shall provide the obligor the opportunity to contest the action.

(3) Notwithstanding the provisions of section (1) of this rule, use of this procedure shall be considered inappropriate if SED or the DA determines:

- (a) It is unlikely that the obligor would be able to secure a bond;
- (b) The obligor qualifies for exemption from support enforcement activity, including exemption from posting security, bond, or other guarantee of payment, as a person receiving general or public assistance in his/her own behalf, in accordance with ORS 416.410(3); or
- (c) A court of appropriate jurisdiction has ordered that the obligor be exempted from referral due to hardship circumstances. The obligor must notify the obligee and the enforcing agency when filing a claim for hardship exemption with a court.

Stat. Auth.: ORS 25.080, 25.230, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90

461-195-0238

Collection and Distribution of Support Through Garnishment Proceedings

- (1) Any Oregon enforcing agency, as defined in rule 461-195-0001, or the Department of Human Resources (DHR) may, at its discretion, utilize garnishment proceedings in accordance with ORS Chapter 29 for the purpose of collecting child support.
- (2) When DHR receives a collection from a garnishment proceeding, DHR shall hold the collection for 30 days before distributing any amounts due the obligee from the collection.
- (a) This requirement is made to accommodate the possibility that DHR may have to return funds from the collection to the garnishee, the obligor, or the court, as a result of the obligor having filed a claim of exemption in accordance with ORS Chapter 29.
- (b) DHR shall waive this requirement to hold the collection for 30 days, and shall apply the collection to the case for immediate distribution, in any case where the obligor provides DHR (or the enforcing agency) with a signed and notarized statement expressly waiving the right to a claim of exemption and requesting that DHR apply and distribute the payment immediately.

Stat. Auth.: ORS 29.125 - 29.375, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 28-1996, f. & cert. ef. 7-1-96

461-195-0244

Distribution of Collections on Active ADC Cases

- (1) Except for amounts collected by federal and state income tax offset payments, and for JOBS Plus participants per section (2) of this rule, where the obligee and/or beneficiaries in the support case(s) are receiving ADC-BAS and assignment of support rights has been made pursuant to OAR 461-120-0310, distribution of support collections shall be made as follows:
- (a) Up to the first fifty dollars received from any support collections for a family in a month shall be distributed to the family. This distribution is hereafter referred to as the "pass-through". Only one pass-through shall be distributed to a family each month from support collections made in that month from all support cases for that family.
- (6) The amount of support payments received in a month that remain after distribution of the pass-through shall be distributed in the following order as funds remain:
- (A) To the Division to reimburse for ADC cash assistance up to the amount of cash assistance issued in the current month;
- (B) The differences between the amount already distributed (as pass-through and to reimburse current assistance) and the court ordered amount fro the current mont, if any, is distributed to the family;
- (C) To remaining unreimbursed assistance, not to exceed the amount of the arrearage(s) on the support case(s);
- (D) To the family, if any arrearage remains.
- (2) ADC-BAS clients who are working under a JOBS Plus contract shall receive the full amount of current support collections. The support will be paid directly to the obligee.

Stat. Auth.: ORS 25.020, 409.020, 411.060 & 416.410

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 20-1994, f. & cert. ef. 9-2-94

461-195-0248

Distribution of Child Support Collections Following Termination of Public Assistance

- (1) When a family receiving public assistance terminates its grant, and the Child Support Program (CSP) of the Adult and Family Services Division receives a child support payment for the family in any month following the month the grant was terminated, CSP shall distribute the payment in the following sequence:
- (a) The court ordered amount due for the current month will be paid to the obligee;
 - (b) Arrears accrued since the most recent closure of the public assistance grant will be paid to the obligee;
 - (c) Unreimbursed assistance collectible from the remaining arrearage will be paid to the Department of Human Resources (DHR);
 - (d) Any remaining amount will be paid to the obligee.
- (2) Section (1) of this rule notwithstanding, CSP will distribute support collections to DHR, for reimbursement of public assistance paid to the family, when any of the following circumstances occur:
- (a) When, after five months beyond grant closure, CSP receives a collection on any case with arrearages assigned to the state and the current support portion of the case has been closed in accordance with OAR 461-195-0050;
 - (b) When CSP receives a collection made by interception of an obligor's federal income tax refund on any case with arrearages assigned to the state, not to exceed the sum of the assigned arrearages.

Stat. Auth.: ORS 25.020, 409.020, 411.060 & 416.410

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: PWC 851(Temp), f. & ef. 8-11-77; Renumbered from 461-04-518; AFS 3-1978, f. & ef. 1-6-78; AFS 88-1980, f. & ef. 12-10-80; AFS 23-1987(Temp), f. 6-19-87, ef. 7-1-87; AFS 60-1987, f. & ef. 11-4-87; AFS 31-1989, f. 6-6-89, cert. ef. 6-9-89; Renumbered from 461-35-003; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-410

461-195-0255

Incentive Payments

- (1) The Department of Human Resources (DHR) will calculate an incentive to be paid to counties for child support enforcement services provided under cooperative agreements on non-Aid to Dependent Children (non-ADC) cases, pursuant to applicable federal regulations.
- (2) DHR will calculate and distribute the non-ADC incentive quarterly. Quarterly payments are estimates; actual incentives earned are based on performance during a federal fiscal year. DHR will distribute incentives no later than the last day of the quarter following the quarter in which the incentive was earned. DHR will make adjustments for over or under payments quarterly and will reconcile such payments annually to the actual incentive earned for the federal fiscal year.

(3) DHR's basis for calculating non-ADC incentives will be expenditure data provided to DHR quarterly by the counties, and collection and caseload data from the DHR child support recordkeeping system. Collections attributable to the counties will be collections on those cases in the DHR recordkeeping system which indicate that the district attorney has received an application for enforcement services or is providing continuation of service following closure of an ADC grant. The percentage of total non-ADC collections attributable to the district attorneys is referred to as the county percentage.

(4) The total non-ADC incentive is limited by the percent of ADC collections paid as an incentive. This percentage is calculated pursuant to Title 45, Part 303.52 of the Code of Federal Regulations. The percentage of non-ADC incentives compared to ADC incentives by federal fiscal year are as follows:

(a) 100 percent in fiscal years 1986 and 1987;

(b) 105 percent in fiscal year 1988;

(c) 110 percent in fiscal year 1989;

(d) 115 percent in fiscal year 1990 and thereafter.

(5) DHR will retain 1/2 of the total non-ADC incentive received from the federal government, as an offset to the costs of services provided by DHR.

(6) DHR will divide the remaining 1/2 of the non-ADC incentive between the state and the counties based on a percentage developed by dividing the county and/or state Support Enforcement Division collections by the total state non-ADC collections.

(7) DHR will adjust each county's share of the amount determined as that county's percentage of non-ADC incentives by a factor based on the county's level of efficiency and effectiveness. One-half of the county's share will be affected by efficiency and 1/2 of the county's share will be affected by effectiveness.

(8) Incentive distributions to individual counties will not exceed the county share of expenditures.

(9) DHR will increase the percentage of the county share of non-AFDC incentives received by .0005 for the first standard deviation that a county is above the average of effectiveness or efficiency for all counties. For each additional standard of deviation above the average for all counties, DHR will increase the county's percentage share by .0010.

(10) DHR will reduce the percentage of the county share of non-AFDC incentives received by a county by .0005 for the first standard deviation that a county is below the average of effectiveness or efficiency for all counties. For each additional standard of deviation below the average for all counties, DHR will reduce the county's percentage share by .0010.

(11) The total non-ADC incentive distributions to all counties will not exceed the total counties share of non-ADC incentives.

(12) The county's effectiveness ratio is the county's collections divided by the county's non-ADC caseload.

(13) The county's efficiency ratio is the county's collections divided by county's expenditures.

(14) For purposes of incentive calculations, DHR will treat any pending disallowance from either the state or federal governments as a reduction in expenditures. Any disallowance expenditures that are later allowed or any prior adjustment period identified by the county on its quarterly report will adjust the allocation to the counties. DHR will make this adjustment when calculating the following year's annual incentive distribution.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Adult and Family Services Division.]

Stat. Auth.: ORS 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 80-1985(Temp), f. & ef. 12-31-85; AFS 14-1986, f. & ef. 2-11-86; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-052

461-195-0265

Recovery of Overpayments on Support Accounts

(1) A child support overpayment in favor of the State of Oregon is created when the Child Support Accounting Unit (CSAU) has transmitted money to an obligee or to a person or entity to whom the obligee has assigned the right to receive support payments due the obligee, and:

- (a) The amount transmitted by CSAU is more than the support obligation requires for current and/or past-due support, and CSAU has returned the excess amount to the obligor; or
- (b) CSAU has misapplied money received by CSAU, including but not limited to transmitting the money to an incorrect obligee or assignee or failing to retain money assigned to the State of Oregon; or
- (c) The amount transmitted by CSAU is attributable in whole or part to a tax refund offset collection, all or part of which has been taken back by the Internal Revenue Service or the Oregon Department of Revenue; or
- (d) The amount transmitted by CSAU resulted from a withholding that exceeded the amount authorized by law.

(2) The obligee or assignee to whom CSAU transmitted the money owes the amount of the overpayment to CSAU, acting on behalf of the State of Oregon. For any such overpayment, CSAU shall:

- (a) Attempt to recover the overpayment if CSAU has determined that it is cost-effective to do so;
- (b) Notify the obligee or assignee, in writing, that the obligee or assignee owes the money to CSAU, and specify the amount to be returned to CSAU; and
- (c) Give the obligee or assignee an opportunity to object.

(3) If the obligee or assignee does not file a written objection within 30 days of the date that CSAU sent the written notification under subsection (2)(b) of this rule, the overpayment amount determined by CSAU and specified in the written notification is final.

(4) If the obligee or assignee files a written objection within 30 days, and CSAU does not resolve the objection to the obligee or assignee's satisfaction, a hearings officer of the Department of Human Resources shall hear the objection. An order by the hearings officer is final. The obligee or assignee may appeal the decision of a hearings officer to the circuit court for a hearing de novo. The appeal shall be by a petition for review, filed within 60 days after the date that the final hearing order has been mailed to the obligee or assignee.

(5) Notwithstanding the other provisions of this rule, if an agency of the State of Oregon or of another state owes the overpayment, that agency shall return the amount of the overpayment to CSAU without right to prior notice or opportunity to object.

(6) Once the obligee or assignee has failed to object to the overpayment within 30 days of when CSAU sent written notification of the overpayment to the obligee or assignee, or once any objection has been resolved, the amount of the overpayment is a liquidated debt and a delinquent amount owed to the State of Oregon. CSAU may collect this debt through any means permitted by law, including but not limited to offsetting tax refunds claimed by the obligee or

assignee, obtaining judgments for amounts owed and collecting through garnishment proceedings, and entering into voluntary repayment agreements with the obligee or assignee.

(7) CSAU may assign the debt to the Overpayment Recovery Unit of the Adult and Family Services Division for collection, for sending the written notice in subsection (2)(b) of this rule to the obligee or assignee, and for performing any or all other duties or functions required under this rule.

Stat. Auth.: ORS 25.020, 409.020, 411.060 & 1997 Senate Bill 188, Section 2(2), (3), (4), (5) & (7)

Stats. Implemented: 1997 Senate Bill 188, Section 2(2), (3), (4), (5) & (7)

Hist.: AFS 23-1983(Temp), f. & ef. 5-18-83; AFS 53-1983, f. 10-28-83, ef. 11-1-83; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-045; AFS 3-1992, f. 1-31-92, cert. ef. 2-1-92; AFS 16-1997, f. 9-2-97, cert. ef. 10-1-97

461-195-0270

Dishonored Payment Recovery

- (1) The Child Support Accounting Unit (CSAU) is authorized to forward payment to the obligee immediately when a payor of support, including either the support obligor or a payor on behalf of the obligor, presents payment to CSAU.
- (2) A debt in favor of the State of Oregon is created against the support obligor or other payor when:
- (a) CSAU receives a check (or other payment instrument) from an obligor, or other payor on behalf of the obligor; and
 - (b) CSAU then transmits the appropriate amount from that check to the obligee; and
 - (c) The check of the obligor or other payor is then dishonored.
- (3) When such a debt is created under section (2) of this rule, CSAU shall, on behalf of the State of Oregon:
- (a) Remove credit for the dishonored amount from the obligor's CSAU payment record, and
 - (b) Attempt to recover the debt from the obligor or payor, if cost-effective to do so; and
 - (c) Notify the obligor or payor who presented the dishonored instrument, in writing, that the obligor or payor owes the amount specified to the State of Oregon and that the obligor or payor must pay the amount specified to CSAU.
- (4) Once CSAU has sent the written notification required under section (3) of this rule, the amount of this debt is a liquidated debt and a delinquent amount owed to the State of Oregon, without any further right to an administrative review or hearing.
- (5) The Department of Human Resources or Department of Justice may recover this debt in any way permitted under law, including but not limited to offsets against tax refunds claimed by the payor, obtaining judgments for amounts owed and collecting through garnishment proceedings, and entering into voluntary repayment agreements with the payor. The Department of Human Resources or Department of Justice may additionally recover any fees permitted by law.
- (6) When a check has been dishonored, CSAU may hold all future payments by personal check from that payor for 18 working days, or until the instrument clears the payor's financial institution, before forwarding payment to the obligee. CSAU may waive this requirement after a one year period if no further payments from that payor have been dishonored, or if the dishonored payment was dishonored for reasons that CSAU has determined were beyond the payor's control, such as an error on the part of the financial institution or on the part of CSAU.

(7) CSAU may assign the debt to the Overpayment Recovery Unit of the Adult and Family Services Division for collection, for sending the written notice in subsection (2)(c) of this rule to the obligor or payor, and for performing any or all other duties or functions required under this rule.

Stat. Auth.: ORS 25.020, 409.020, 411.060 & 1997 Senate Bill 188, Section 2(5) & (7)

Stats. Implemented: 1997 Senate Bill 188, Section 2(5) & (7)

Hist.: AFS 53-1983, f. 10-28-83, ef. 11-1-83; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-046; AFS 16-1997, f. 9-2-97, cert. ef. 10-1-97

461-195-0280

Relating to Use of FPLS in Parental Kidnapping Cases

- (1) The AFS Child Support Unit (CSU) shall accept requests for information from the Federal Parent Locator Service (FPLS), of the Office of Child Support Enforcement (OCSE), in order to locate a parent or child for the purpose of:
- (a) Enforcing any state or federal law with respect to the unlawful taking or restraint of a child; or
 - (b) Making or enforcing a child custody determination.
- (2) CSU shall accept only those requests that are submitted by:
- (a) Any agent or attorney of the State of Oregon, or district attorney in Oregon, who has the duty or authority under Oregon law to enforce a child visitation or custody determination;
 - (b) Any court having jurisdiction to make or enforce a child custody determination, or any agent of the court; or
 - (c) Any agent or attorney of the United States, or of any state having a written agreement with OCSE governing use of FPLS in parental kidnapping or custodial interference cases, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.
- (3) Parties authorized under section (1) of this rule, must submit their requests for FPLS services to CSU. Each request must contain the following information about the person sought:
- (a) Full legal name and any known aliases;
 - (b) Social Security Number (SSN), if known. However, if the SSN is unknown, CSU will make every reasonable effort to ascertain the SSN before submitting the request to FPLS;
 - (c) Date of birth, if known;
 - (d) Whether the person is or has been a member of the armed services, if known;
 - (e) Whether the individual is receiving, or has received, and federal compensation or benefits, if known; and
 - (f) Any other information OCSE may require or prescribe.
- (4) CSU shall assess a fee of \$30 for use of this FPLS service. The authorized requestor must submit this fee to CSU with each request.
- (5) CSP shall assess an additional fee of \$4 on those requests on which the Social Security number of the person being sought is not known. Payment of this fee shall accompany the request. CSU shall transmit this \$4 fee to OCSE upon receipt of that office's request for payment.

(6) If OCSE cannot locate the person's Social Security number following payment of the \$4 fee prescribed in section (5) of this rule, CSU shall, upon receipt of authorization from OCSE, refund to the requestor \$10 of the \$30 fee described in section (4) of this rule. All other fees shall be retained and applied toward the expenses incurred in administering this service.

Stat. Auth.: ORS 25.080, 409.020, 409.050 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 22-1983, f. & ef. 5-16-83; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-020

461-195-0282

Requirement for Services - Obligor Bankruptcy Situations

(1) Effective November 1, 1994, the Support Enforcement Division of the Department of Justice and the county District Attorneys, when responsible for providing services under ORS 25.080, shall have on staff an attorney admitted to federal court practice to handle situations of obligor bankruptcy, or contract with suitable counsel so admitted.

(2) For the purposes of this rule, "suitable counsel" means any of the following:

- (a) That portion of the Oregon Department of Justice designated to handle bankruptcy situations; or
- (b) Any Oregon county district attorney's office with staff admitted to federal court practice to handle situations of obligor bankruptcy; or
- (c) Private counsel so admitted, provided that such private counsel complies with the administrative rule(s) and procedures of the Adult and Family Services Division that apply to situations of obligor bankruptcy.

Stat. Auth.: ORS 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 14-1994, f. 7-25-94, cert. ef. 8-1-94

461-195-0284

Obligor Bankruptcy Situations in General

(1) This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to all bankruptcies filed prior to October 24, 1994.

(a) Upon being notified of the bankruptcy the Automatic Stay applies. The Child Support Accounting Unit or the enforcement entity, whichever is first aware of the bankruptcy, shall:

- (A) Enter the appropriate codes for bankruptcy on the child support computer file; and
- (B) Narrate the child support case file with the bankruptcy information to alert other program participants of the bankruptcy situation.

(b) The Child Support Accounting Unit or the enforcement entity, whichever is first aware of the bankruptcy discharge,

shall upon receiving a discharge or dismissal notice or verifying that the bankruptcy was closed:

(A) Remove the codes for bankruptcy on the child support computer file; and

(B) Narrate the bankruptcy information on child support computer file.

Stat. Auth.: ORS 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 2-1995, f. 1-10-95, cert. ef. 1-11-95

461-195-0286

Obligor Chapter 7 and Chapter 11 Bankruptcy Situations

This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to Chapter 7 and Chapter 11 bankruptcies filed prior to October 22, 1994.

(1) Upon receiving notification of bankruptcy, the enforcement entity providing services under ORS 25.080 for the particular child support case shall:

(a) Stop any legal action that is pending, except as follows:

(A) If a child was conceived on or after date of filing of the petition, legal action to establish paternity and/or support may continue;

(B) If a child was conceived on or after date of filing, modification services may continue for that child.

(b) Leave any existing income, unemployment, or worker's compensation withholding orders in place. In a Chapter 7 bankruptcy, collections shall continue against post-petition earnings for both current support and for both pre-petition earnings and post-petition arrears. In a Chapter 11 bankruptcy, collections shall continue for current support and post-petition arrears. If no withholding order is in place, enforcement entities shall obtain a withholding order, as appropriate, when employment becomes known as the Automatic Stay does not apply in this situation.

(c) Determine if there are any other enforcement actions in process which may be stayed or which may involve property of the bankruptcy estate, such as garnishment of bank accounts, occupational license suspension, and interception of tax refunds. Terminate any action that involves property of the bankruptcy estate and notify the Child Support Accounting Unit so that property of the estate that has not been distributed can be returned to the bankruptcy trustee.

(d) Send a copy of the bankruptcy notice or PACER print out, if any, to the Child Support Accounting Unit if the bankruptcy notice has not yet been microfilmed and entered into the child support computer file.

(2) The enforcement entity shall file no Proof of Claim if no assets are involved in a Chapter 7 bankruptcy.

(3) If there are assets in a Chapter 7 bankruptcy, the enforcement entity shall file a Proof of Claim, if applicable, even if the time period for filing a Proof of Claim has passed.

(4) In a Chapter 11 bankruptcy, the enforcement entity shall file a Proof of Claim for current child support and arrearages owed at the time the petition was filed, if any.

(5) The enforcement entity shall respond to any objections filed to the Proof of Claim.

(6) The enforcement entity shall petition the Bankruptcy Court for a Relief from Stay unless there is evidence that the

bankruptcy will close or the Plan Confirmed before a Relief from Stay can be obtained. This shall apply when the following services are needed:

- (a) Paternity establishment for a child conceived prior to the bankruptcy petition filing; or
 - (b) Support establishment for a child conceived prior to the bankruptcy petition filing; or
 - (c) Modification services if a Relief from Stay is needed to proceed; or
 - (d) If the bankruptcy stay prevents the next enforcement action that is needed in a child support case.
- (7) In a Chapter 7 bankruptcy, the enforcement entity shall not file or otherwise cause a property lien to be filed until the bankruptcy is closed or dismissed, unless an appropriate Relief of Stay is obtained. In a Chapter 11 bankruptcy, a property lien may be filed after the Plan is confirmed if the property reverts to the obligor.

Stat. Auth.: ORS 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 2-1995, f. 1-10-95, cert. ef. 1-11-95; AFS 15-1995, f. 7-7-95, cert. ef. 7-10-95

461-195-0288

Obligor Chapter 12 and Chapter 13 Bankruptcy Situations

This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to Chapter 12 and Chapter 13 bankruptcies filed prior to October 24, 1994.

- (1) Upon receiving notification of bankruptcy, the enforcement entity providing services under ORS 25.080 for the particular child support case shall:
- (a) Stop any legal action that is pending, except as follows:
 - (A) If a child was conceived on or after date of filing of the petition, legal action to establish paternity and/or support may continue;
 - (B) If a child was conceived on or after date of filing, modification services may continue for the child.
 - (b) Terminate any administrative or judicial orders to withhold and any withholding order for unemployment compensation and worker's compensation;
 - (c) Determine if there are any other enforcement actions in process which may involve property of the bankruptcy estate, such as garnishment of bank accounts and interception of tax refunds. Terminate any action that involves property of the bankruptcy estate and notify the Child Support Accounting Unit so that property of the estate that has not been distributed can be returned to the bankruptcy trustee;
 - (d) Send a copy of the bankruptcy notice, if any, to the Child Support Accounting Unit if the bankruptcy notice has not yet been microfilmed and entered into the child support computer file.
- (2) The enforcement entity shall file a Proof of Claim for current child support and arrearages owed at the time the petition was filed, if any, if the time period for filing a Proof of Claim has not passed.
- (3) Enforcement entities shall respond to any objections filed to the Proof of Claim.

(4) The enforcement entity shall review the Summary of Plan or proposed Plan and the Debtor's Schedule J, if received, for repayment of arrears and for payment of ongoing child support.

(a) If the time period for filing objections has not passed, the enforcement entity shall file an objection to a Plan if the amount of current child support or arrears are incorrect;

(b) If the Plan does not provide for pre-petition arrears or current child support, the enforcement entity shall file an objection to have the pre-petition arrears and current child support included in the plan if the time period for filing an objection has not passed.

(5) After Confirmation, if the property of the estate has reverted in the debtor, enforcement entities shall resume collection on current child support. If the Plan provides for the pre-petition arrears, collection of the arrearages will be governed by the terms of the Plan.

(6) The enforcement entity shall petition the bankruptcy court for a Relief of Stay when any of the following services are needed:

(A) Paternity establishment for a child conceived prior to the bankruptcy petition filing;

(B) Support establishment for a child conceived prior to the bankruptcy petition filing;

(C) If modification services are needed;

(D) If the bankruptcy stay prevents the next enforcement action that is needed in a child support case;

(E) If the enforcement entity did not have knowledge of the bankruptcy in time to object to confirmation and the plan does not provide for substantial payment on arrears, so that the enforcement entity may resume collection on arrears.

(7) The Automatic Stay prevents the filing of a property lien for pre-petition arrears until such time as the bankruptcy is discharged. The enforcement entity shall not file or otherwise cause such property lien to be filed until the bankruptcy is discharged, unless an appropriate Relief of Stay is obtained.

Stat. Auth.: ORS 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 2-1995, f. 1-10-95, cert. ef. 1-11-95

461-195-0290

Confidentiality of Records in the Child Support Program

(1) All entities of the Oregon Child Support Program of the Department of Human Resources and all governmental entities that contract with DHR to administer and operate any portion of the Child Support Program are bound by the provisions of this rule, except as described in subsection (13) of this rule and are included as elements of the Child Support Program for purposes of this rule.

(2) For purposes of this rule, and subject to the limitations set forth in subsection (3) of this rule, the contents of a child support case record include, but are not limited to:

(a) The names of the obligor, obligee or other payee;

(b) The addresses of the obligor and obligee or other payee;

- (c) The address of record and address of service of the obligee or obligor;
 - (d) The name and address of the obligor's employer.
 - (e) The social security numbers of the obligor, the obligee and beneficiaries;
 - (f) The record of all legal and collection actions taken on the case;
 - (g) The record of all accrual and billings, payments and distribution of payments;
 - (h) The narrative record;
 - (i) The contents of any paper file maintained for purposes of establishment and/or enforcement of a child support order or for accounting purposes.
- (3) Any data listed in subsection (2) of this rule or any other data that resides on the child support system that is extracted from computer interfaces with other agencies' computer systems is not considered to be child support information until or unless the data is used for child support purposes. Until such data is used for child support purposes it is not subject to any exceptions to confidentiality and it shall not be released to any other person or agency in any circumstance.
- (4) Child support case related records, files, papers and communications are considered confidential. The Child Support Program shall not disclose or use the contents of any such records, files, papers or communications for purposes other than those directly connected to the administration of the Child Support Program except that information may be shared as follows:
- (a) Information may be shared for purposes of administration of programs, in Oregon or other states, authorized and operated under:
 - (A) Part IV-A of the Social Security Act which includes Aid to Families with Dependent Children (AFDC);
 - (B) Part IV-B of the Social Security Act, Child Welfare Programs which includes protective services programs operated by the State Office of Services to Children and Families;
 - (C) Part IV-D of the Social Security Act, child support enforcement programs in Oregon and other states;
 - (D) Part IV-E of the Social Security Act, which includes foster care and adoption assistance programs administered by the State Office of Services to Children and Families;
 - (E) Part IV-F of the Social Security Act, the Job Opportunities and Basic Skills (JOBS) Program;
 - (F) Title I of the Social Security Act, Old Age Assistance;
 - (G) Title X, Aid to the Blind;
 - (H) Title XIV of the Social Security Act, Aid to the Permanently and Totally Disabled;
 - (I) Title XVI of the Social Security Act, state programs and Supplemental Security Income for aid to the aged, blind or disabled;
 - (J) Title XIX of the Social Security Act, Medicaid programs;
 - (K) Title XX of the Social Security Act, block grants to states for social services.
 - (b) Information may be shared for purposes of any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of the plan or program referred to in subsection (a) of this subsection.

- (c) Information may be shared for the administration of any other federal or federally assisted programs that provide assistance, in cash or in kind, directly to individuals on the basis of need.
 - (d) Information disclosed in connection with collection, enforcement, establishment or accounting processes done by the Child Support Program necessary to the administration of the program is not a violation of this rule.
 - (e) Information disclosed in connection with application of any state or federal statute or rule that authorizes the Child Support Program to take an action or release information is not a violation of this rule.
 - (f) Elected federal and state legislators and the Governor are considered to be within the chain of oversight of the Child Support Program. Information about a child support case may be shared with these elected officials and their staffs in response to issues brought by constituents who are parties to the case. County commissioners exercise a constituent representative function in county government for county administered programs. District attorney offices that operate child support programs may respond to constituent issues brought by county commissioners of the same county if the constituent is a party in a case administered by that office. District attorneys are DHR contractors. DHR Child Support Administration may also respond to constituent issues brought by county commissioners on district attorney administered child support cases where the constituent is a party.
 - (g) When a party requires the use of an interpreter in communicating with Child Support Program Staff, information given to such an interpreter is not a violation of any provision of this rule.
 - (h) A person who is the executor of the estate of a deceased party shall be entitled to receive any information that the deceased party would have been entitled to receive.
- (5) Information from a Child Support Program case record may be disclosed by an entity of the Child Support Program to a party in that case, or attorney representing a party in that case, except for the following personal information about the other party, unless disclosure of that information is otherwise required by rule or statute:
- (a) The residence or mailing address of the other party if that other party is not the state;
 - (b) The social security number of the other party;
 - (c) The place of employment of the other party;
 - (d) The telephone number of the other party, except when submitting a packet for scheduling an administrative hearing, a copy of which is sent to both parties;
 - (e) Financial institution account information of the other party.
- (6) When an entity of the Child Support Program provides copies of documentary material from a party's case record to a party or an attorney representing a party upon request, the entity of the Child Support Program may charge the requestor the actual costs of staff time and materials for producing those copies of records. The entity of the Child Support Program may require payment of such costs before releasing requested documents to requestors.
- (7) Information from Child Support Program case records and computer files may be disclosed to persons not a party to the child support case who are making contact with an entity of the Child Support Program on behalf of a party, if the following conditions are met:
- (a) The person not a party must provide the social security number of the party for whom they are making the inquiry or the child support case number; and
 - (b) The person not a party making the contact on behalf of the party is:
 - (A) The current spouse or domestic partner of the party and residing with the party;

(B) A parent or legal guardian of the party.

(c) The employee of the Child Support Program has determined that the person not a party as described in subsections (a) and (b) of this subsection is making case inquiries on behalf of the party and disclosure of such information would normally be made to the party in reply to such an inquiry;

(d) Such disclosure of information to a person not a party as described in subsections (a) and (b) of this subsection is limited to the specific inquiries made on behalf of the party and is subject to the restrictions in subsection (5) of this rule;

(e) No information from a child support record shall be disclosed to a person not a party under any other circumstance, unless:

(A) The party has granted written consent to release the information to the person not a party: or

(B) The person not a party has power of attorney for the party. If such a person has power of attorney for a party, any information that would be released to the party may be released to the person having power of attorney.

(8) Child support case account balance is derived from the child support judgment which is public information and from the record of payments which is not. Therefore, the case balance is not public information and is confidential and may not be released to persons not a party except as otherwise provided in this rule.

(9) Information obtained from the Internal Revenue Service and/or the Oregon Department of Revenue is subject to confidentiality rules imposed by those agencies even if those rules are more restrictive than the standards set in this rule and may not be released for purposes other than those specified by those agencies.

(10) Criminal record information obtained from the Law Enforcement Data System or any other law enforcement source shall be used for child support purposes only and shall not be disclosed to parties or any other person or agency outside of the Child Support Program. Information about the prosecution of child support related crimes initiated by a IV-D agency may be released to parties in the child support case.

(11) Employees of entities of the Child Support Program shall not access computer records or records of any other nature available to them as employees that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee shall perform casework on their own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.

(12) When Child Support Program staff receive information that gives reasonable cause to believe that a child has suffered abuse as defined in ORS 419B.005(1) the staff person shall cause a report to be immediately forwarded to:

(a) The State Office of Services to Children and Families and/or to an appropriate law enforcement agency if the child has been subjected to such abuse as a result of any IV-D activity;

(b) The State Office of Services to Children and Families if such abuse is not as a result of any IV-D activity, and not to any law enforcement agency.

(13) Child support practitioners who are subject to the Disciplinary Rules of the Oregon Code of Professional Responsibility are expected to conform to those rules. To the extent that those rules mandate a stricter standard than required by this rule, the Disciplinary Rules apply.

Stat. Auth.: ORS 409.020, 411.060, 411.320, 25.260, 9.160, 9.490, 9.542, Chapter 609 Oregon Laws 1995

Stats. Implemented: ORS 25.260

Hist.: AFS 31-1995, f. & cert. ef. 11-8-95; AFS 19-1996, f. & cert. ef. 5-10-96; AFS 38-1996, f. & cert. ef. 11-20-96

461-195-0301

Definitions

For purposes of OAR 461-195-0301 through 461-195-0350, the following definitions shall apply:

- (1) "Recipient" means an individual who receives medical assistance or whose needs are included in a public assistance grant.
- (2) "Assistance" means moneys for a recipient's needs and for the needs of other individuals living with the recipient whom the recipient has an obligation to support which are paid by the Adult and Family Services Division either directly to the recipient or to others for the benefit of the recipient. Assistance includes both cash and medical assistance, but only the medical assistance directly related to the personal injury. 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 Division.
- (3) "Personal Injury" means a physical or emotional injury to an individual including but not limited to assault, battery, medical malpractice arising from such physical or emotional injury.
- (4) "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.

Stat. Auth.: ORS 409.050, 411.060, 416.510 & 416.610

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

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 461-10-100

461-195-0303

Personal Injury Claim

- (1) For all programs, the existence of a claim for personal injuries does not make recipients ineligible for program benefits, although the claim will be considered in determining need. For all programs except FS, the Division will file a lien on the claim.
- (2) If a recipient fails to pursue such a claim, after the Division's Personal Injury Lien staff determine that a claim should be pursued, the Division shall apply the penalties in OAR 461-120-0330 unless good cause is established per OAR 461-120-0350.

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 461-195-300

461-195-0305

Lien of the Division

(1) Whenever a recipient has a claim for damages for a personal injury, the Adult and Family Services Division (AFS) 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 AFS Third Party Recovery Unit when a judgment has been issued or a settlement or compromise has been reached so that the exact amount of the Division's lien may be determined. For the purposes of this rule, immediately means within ten days.

(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 incurred by such recipient on account of the personal injury giving rise to the claim.

(5) The Division's lien must be satisfied or specific approval must be given by the Division's Personal Injury Lien staff before any portion of the claim settlement is released to the recipient. The Division shall have a cause for action against any person or public body, agency or commission bound by the judgment, settlement or compromise who releases any portion of the claim settlement to the recipient before meeting this provision.

Stat. Auth.: ORS 409.050, 411.060, 416.510 & 416.610

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

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 461-10-105

461-195-0310

Notice of Claim by Applicant or Recipient

(1) An applicant for or recipient of public assistance who has a claim for a personal injury is required to notify the Adult and Family Services Division within ten days of initiating that claim, unless the action was initiated prior to the application for public assistance. If the action was initiated prior to the application for public assistance, the recipient shall notify the Division at the time of application. The notification must include the names and addresses of all parties against whom the action or claim is brought. Parents, guardians, foster parents, or caretaker relatives must make the notification on behalf of injured minors or incompetent adults.

(2) If an applicant for or recipient of public assistance fails to report a claim as required, the Division will have a cause of action against the applicant or recipient to the extent that the Division could have had a lien.

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 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 461-10-110

461-195-0315

Notice of Determination of Lien by Division

Where the Adult and Family Services Division determines that it has a lien pursuant to OAR 461-195-0305, the Division shall:

- (1) Issue an order to the recipient notifying the recipient of the Division'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 the recipient.

Stat. Auth.: ORS 409.050, 411.060, 416.510 & 416.610

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

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 461-10-115

461-195-0320

Release of Lien for Future Medicals

- (1) To qualify for consideration of a full or partial release of lien pursuant to ORS 416.600, the recipient must demonstrate, through documentation satisfactory to the Division, that:
 - (a) As a result of the personal injuries 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 or judgment awarded the recipient; and
 - (f) Any other documentation requested by the Division
- (2) In considering a request for a full or partial release of a lien pursuant to ORS 416.600, the Division will 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 Division will evaluate this factor in light of the nature and certainty of the type of medical treatment anticipated. The Division will not grant a release, pursuant to ORS 416.600, as to future medical expenses that are likely to occur 10 years or more from the date of the injury;
 - (c) Whether the amount of the net settlement or judgment is sufficient to pay the future medicals and all or part of the Division's lien;
 - (d) Whether the recipient has or is likely to have another source for payment of the future medicals;
 - (e) The effect, if any, of the requested release on the recipient's continuing eligibility for future medical or public assistance; and

(f) Any other factor deemed relevant by the Division.

(3) In no case will the Division consider a request for a partial or full lien release pursuant to ORS 416.600 unless the recipient and the liable third party has entered into a final, binding settlement agreement or the recipient has received a final judgment.

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

461-195-0325

Release or Compromise of Lien

The Division may release or compromise its lien as follows:

- (1) If the lien amount is less than 75 percent of the net settlement, the full amount of the lien will be recovered.
- (2) If the lien amount is more than 75 percent of the net settlement, the lien amount will be reduced to 75 percent of the net settlement.
- (3) The recipient will always get at least 25 percent of the net settlement.

Stat. Auth.: ORS 409.050, 411.060, 416.510 &endash; 416.610

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 18-1991, f. 9-30-91, cert. ef. 10-1-91

461-195-0350

Procedure Where Injured Recipient is a Minor

- (1) Where the injured recipient is a minor, the Adult and Family Services Division may petition the court having probate jurisdiction in the county in which the minor lives to determine the sum that will be needed for the minor's complete physical rehabilitation. The lien of the Division shall not attach to the amount of any sum needed for the rehabilitation.
- (2) The Division may petition the court for appointment of a guardian for the minor or conservator of the minor's estate to ensure the sum is used for the minor's rehabilitation.

Stat. Auth.: ORS 409.050, 411.060, 416.510 &endash; 416.610

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

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 461-10-150

461-195-0510

Definition of Overpayment

- (1) An overpayment is any cash, medical, FS or vendor payment made by the Division that exceeds the amount a person is eligible for, and is received by, or on behalf of, that person. An overpayment may result from administrative error, client error or possible fraud/intentional program violation (IPV).
- (2) An overpayment also occurs when the Division is not reimbursed for GA Interim Assistance after a GA client receives a retroactive SSI lump-sum payment.
- (3) No overpayment exists in the following situations:
 - (a) The owner of a resource did not know that they owned the resource at the time benefits were calculated. The client has the burden to prove they did not know they owned the resource.
 - (b) The client failed to cooperate with JOBS and should have served a disqualification, but did not.
 - (c) The client failed to use a benefit payment to meet the need for which the payment was intended.
 - (d) An incorrect payment is made as a result of an error in judgment, and both of the following are true:
 - (A) Policy specifically allows or requires a judgment decision; and
 - (B) The decision is based on the best information available to the client and to the Division at the time the decision is made.
 - (e) The payment is made on the basis of anticipated income, and the actual income is greater than anticipated income, but:
 - (A) Policy specifically allows or requires that the Division issue benefits on the basis of anticipated income; and
 - (B) The amount of anticipated income is determined from the best information available to the client and to the Division at the time the determination is made.
 - (f) Additionally, for ERDC, none of the following are considered overpayments:
 - (A) Administrative errors result in an incorrect copay amount.
 - (B) Due to the direct provider payment process, an amount over the per-child limit was paid.
 - (C) A client fails to report required changes in the amount of income between APR reports, except changes in the source of income.
 - (g) For FS, either of the following:
 - (A) Administrative error overpayments that total \$100 or less for the duration of the overpayment period.
 - (B) When categorically eligible clients receive incorrect benefits based on resources, SSN or residency, even if the program benefits that made them categorically eligible were issued to them in error.
 - (h) The Division incorrectly forwards a child support payment to the client. An erroneous child support payment is not an overpayment within the meaning of this OAR.
 - (i) Additionally for ADC, cooperation incentive payments were given to clients who are later found not cooperating with their self-sufficiency plan.

Stat. Auth.: ORS 411.060

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 27-1990, f. 11-30-90, cert. ef. 1-1-91; 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 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 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97

461-195-0520

Types of Overpayments

When a client or a child care provider (or a drug/alcohol treatment center or RCF, acting as a FS client's authorized representative) has incurred an overpayment or overissuance of benefits, the Division will determine the type of overpayment according to the following criteria:

- (1) "Administrative technical" overpayments occur due to a lack of JOBS registration (if required), a lack of an SSN, or a lack of declaration of citizenship. These overpayments are not reported or recovered if the client was willing and able to meet the eligibility requirements and would have been eligible for the same amount of benefits had the requirements been met.
- (2) An "administrative error" overpayment is caused by any of the following circumstances, except when it is determined that the client knew or should have known that the payment was an overpaid amount:
 - (a) The Division failed to reduce, suspend, or end benefits upon receipt of information that required such action. This includes cases where the client reported the receipt of income or resources, or a change in need, within the required time frames.
 - (b) The Division failed to use the correct benefit standard.
 - (c) The Division failed to compute or process a payment correctly.
 - (d) The Division did not require a GA client who applied for SSI to complete an Interim Assistance Agreement.
 - (e) The Division committed a calculation, procedural or typing error that was no fault of the filing group or of the overpaid child care provider or authorized representative.
- (3) A "client error" (or "inadvertent filing group error") overpayment is caused by misunderstanding or unintended error on the part of the client. A "client error" overpayment also occurs when clients receive more benefits than entitled to because they requested unreduced benefits pending a hearing decision or misuse a support service payment. Examples of "client error" include instances where:
 - (a) The filing group unintentionally:
 - (A) Did not provide correct or complete information to the branch office.
 - (B) Did not report changes in its circumstances to the branch office.
 - (C) Failed to return, within 10 calendar days, a payment from the Division that constitutes an overpayment. This applies only if, before receiving the incorrect payment, they were notified in writing by the Division of the correct benefit amount or that the Division planned to reduce, suspend, or end benefits.
 - (b) The client misused a JOBS support service payment (e.g., used gas money for personal business and skipped their assigned JOBS activity).
- (4) A "provider error" overpayment is an overpayment made to one of the following:

(a) A child care provider who:

(A) Unintentionally bills the Division for more child care than actually provided; or

(B) Unintentionally negotiates duplicate payments; or

(C) Unintentionally collects payment directly from a child care client after the Division's payment for their services has been garnisheed.

(b) A drug/alcohol treatment center or RCF, acting as a FS client's authorized representative, that incurs an overissuance because of a misunderstanding or unintended error on their part.

(5) For FS, the Division will not establish an administrative error or client error claim against a benefit group:

(a) If the group was otherwise eligible for benefits they received, and they did any of the following:

(A) Did not sign the application form.

(B) Did not complete a work registration form.

(C) Transacted expired ATPs (unless they altered the ATPs).

(D) Did not have benefits approved at the correct branch office.

(E) Did not report changes they were not required to report.

(b) If six or more years have elapsed between the month the overissuance last occurred and the month the Division discovered the overissuance.

(6) For ADC, ERDC and FS, "possible fraud/IPV" occurs when any individual in the filing group, or provider or authorized representative, receives an overpayment, or attempts to receive benefits to which they are not entitled, by doing any of the following:

(a) Intentionally making a false or misleading statement, or misrepresenting, concealing or withholding facts.

(b) Committing an act intended to mislead, misrepresent, conceal or withhold facts to establish or maintain eligibility for benefits; to increase the amount of benefits; or to prevent a reduction in the amount of benefits.

(c) Intentionally making misstatements or incomplete statements, orally or in writing, about the receipt or possession of property, income or resources, or other circumstances that directly affect eligibility for benefits.

(d) Intentionally failing to report to the Division changes that affect eligibility for benefits.

(e) Intentionally failing to reimburse the Division after having signed an Interim Assistance Agreement and selling excess property.

(f) Altering a benefit check, FS coupons, medical card or ATP card.

(g) For child care providers, possible fraud occurs when the provider does any of the following:

(A) Intentionally bills the Division for more child care than actually provided.

(B) Intentionally negotiates duplicate payments.

(C) Intentionally collects payment directly from a child care client after the Division's payment for their services has been garnisheed.

(D) Fails to comply with the agreements on the Child Care Provider Listing form.

Stat. Auth.: ORS 411.060

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 27-1990, f. 11-30-90, cert. ef. 1-1-91; 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 6-1994, f. & cert. ef. 4-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 1-1997, f. 1-30-97, cert. ef. 2-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97

461-195-0530

Overpayment Amount

(1) The overpayment amount is:

(a) The total amount of cash, medical or FS benefits the Division has paid to, or on behalf of, an ineligible client; or

(b) The total amount of cash, medical or FS benefits in excess of the correct benefit amount paid to, or on behalf of, an eligible client.

(2) The overpayment starts with the first incorrect payment following receipt or possession of income, property, resources, or other change in circumstances that caused the overpayment, and ends with the payment in which benefits are corrected or ended.

(3) For ADC-BAS, ADCM-BAS, REF and REFM-BAS:

(a) Overpayments for the initial month of eligibility will be computed only when one of the following is true:

(A) The client withheld information.

(B) The client provided false information.

(C) The Division failed to apply income received or expected to be received to reduce need.

(D) The error was due to incorrect computation by the Division.

(b) If the client would have been ineligible for cash, but eligible for ADCM-EXT, medical expenses paid by the Division during the period of that medical eligibility will not be included in the overpayment.

(4) For clients who are required to cooperate with support enforcement efforts and to assign support to reimburse or reduce benefits:

(a) If the client fails to cooperate with support enforcement efforts by withholding information or giving false information, and the branch discovers this at a later date, an overpayment exists. The client should not have been included in the need group during the time they failed to cooperate. Therefore, the overpayment amount is the difference between the benefits the group received and the reduced benefits they would have received had the client been removed from the need group.

(b) If the client cooperates with support enforcement efforts, but directly receives support that should be, but is not, used to reimburse or reduce benefits, an overpayment exists. For each month, the cash overpayment amount is the lesser of the following:

(A) The amount of support the client received directly that should have been used to reimburse or reduce benefits; or

- (B) The total amount of cash benefits the benefit group received for the month, minus any support that was used to reimburse benefits.
- (c) If the client both fails to cooperate with support enforcement efforts by withholding information or giving false information, and directly receives support that should be, but is not, used to reimburse or reduce benefits, an overpayment exists. The cash overpayment amount is the lesser of the following:
- (A) The combination of the overpayment amounts described in subsections (4)(a) and (4)(b)(A) of this OAR; or
- (B) The amount of cash benefits the group received.
- (5) If a client who is required to assign medical insurance to the Division and cooperate with third-party recovery efforts fails to cooperate by withholding information or giving false information, and the branch discovers this at a later date, an overpayment exists. The client should not have been included in the need group during the time they failed to cooperate. Therefore, the overpayment amount is the difference between the benefits the group received and the reduced amount they would have received if the noncooperating client had been removed from the need group.
- (6) In cases that have both an underpayment and an overpayment in the same program, the Division will offset one against the other.
- (7) When the overpayment is due to administrative error, do not include medical payments that the client would have been eligible to receive under ADCM, GAM or OSIPM. In such cases, do not count the amount of overpaid cash benefits as income when determining if the client would have been eligible for ADCM, GAM, or OSIPM, or what the client's spend-down amount would have been.
- (8) For FS, if the benefit group was categorically eligible, establish an overpayment only if it is based on some factor other than resources, SSN or residency. If the overpayment is based on incorrect income and the correct income would have put the group over income for ADC, GA or SSI, they are still considered categorically eligible for FS, and would be entitled to at least \$10 in FS benefits. Therefore, the overpayment amount is the difference between the FS benefits the group received and the reduced benefits they would have received (but never less than \$10) if the correct income had been used to calculate benefits.
- (9) For OSIPM, when a client receives waived services and does not contribute their adjusted income or the actual cost of their waived services (whichever is less) into a trust and agency account during the payment month, that amount becomes an overpayment.
- (10) Branch office staff will compute only cash and FS overpayments. The AFS Overpayment Recovery Unit (ORU) will compute medical overpayment amounts, including medical overpayments incurred in conjunction with receipt of cash benefits.

Stat. Auth.: ORS 411.060

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 27-1990, f. 11-30-90, cert. ef. 1-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; 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 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97

461-195-0535

Computing Overpayments

Compute the overpayment amount by:

(1) Allowing for credits, against the amount paid in error, for the following items:

(a) For ADC-BAS, GA and REF overpayments, medical services paid by a client during the time of the overpayment, in an amount not to exceed the Division fee schedule for the service. Payments for elective procedures are not allowed unless it is determined that they would have been authorized if requested.

(b) Administrative error underpayment of needs. Do not allow a deduction for one-time special needs.

(c) For OSIP, OSIPM and QMB, when the overpayment results from the client's failure to report receipt of any lump-sum, allow a credit for that portion of the benefit the client was entitled to use to establish a cash reserve, even though no cash reserve was retained.

(2) Including benefits paid during the notice period if:

(a) The client failed to report changes within the reporting time frame; and

(b) Benefits could have been adjusted in time to prevent the overpayment if the client had reported changes within the reporting time frame.

(3) Using actual unreported income in the month(s) received, for cases where income was averaged over a period of time.

(4) For ADC-BAS and REF, allow for earned income deductions as follows:

(a) Do not allow the 50% earned income deduction for clients who, without good cause, did any of the following. For the purposes of this section of the OAR, "good cause" is circumstances beyond the client's control that caused the client to be unable to report their income timely and accurately:

(A) Failed to report all earned income within the reporting time frame.

(B) Underreported earned income.

(b) Allow the 50% earned income deduction for each person in the financial group whose earned income was reported timely and accurately.

(5) Additionally for ADC-BAS:

(a) When computing administrative error overpayments, allow the 50% earned income deduction.

(b) Add the amount of support payments retained by the Division as reimbursement each month to all other income to determine if total ineligibility exists, using the countable income test. On an ineligible ADC case, offset the amount of the overpayment by deducting the amount of support retained by the Division each month for which the overpayment is computed.

(c) When the overpayment is due to the client's failure to cooperate with efforts to obtain support:

(A) Include the amount of cash and medical benefits provided for the client's needs from the first month of noncooperation until the month in which the client began cooperating or stopped receiving benefits. Noncooperation exists only after the client signs the Division's form advising the client of the requirement to cooperate, the penalty for not cooperating and the right to claim good cause for not cooperating.

(B) Do not include benefits for any month in which the Division determined that the client had good cause for not cooperating, or the client claimed good cause per OAR 461-120-0350 and the Division's decision on the good cause claim was pending.

(d) For all hearings except those on JOBS, include the amount of additional benefits, except the special need for

cooperation incentive payment, paid after the timely continuing benefit notice period when benefits are continued unreduced pending a hearing, and the hearing decision is that the client was not eligible for such benefits.

(6) In any program, when a client has incurred both an administrative error overpayment and a client error (or possible fraud) overpayment in the same month, compute the overpayments as follows:

(a) Calculate the administrative error overpayment, using all information that was available to the branch at the time benefits were issued.

(b) Calculate the total amount of overpayment for the month, using both information that the client reported and information that the client did not report.

(c) Subtract the administrative error overpayment, under (a) above, from the total overpayment amount under (b) above, to determine the client error (or possible fraud) overpayment amount.

(7) For ADC and FS, when an "Intentional Program Violation" (IPV) claim is suspected, the client is not entitled to an earned income deduction for that portion of earned income that was intentionally not reported each month.

(8) In addition for ADC and FS, the client is not entitled to an earned income deduction for earned income not reported in a timely manner, which causes a client error claim.

Stat. Auth.: ORS 411.060

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 15-1990, f. 6-27-90, cert. ef. 7-1-90; 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 28-1992, f. & cert. ef. 10-1-92; 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 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97

461-195-0540

Income Averaging

(1) If clients do not report exact earnings, send an AFS 851 to the client's employer. However, the branch office may first ask the client to complete an AFS 851F and to provide adequate verification.

(2) If employers or clients do not supply satisfactory income verification, the branch office may calculate a client's earnings by income-averaging the earnings stated on the Quarterly Earnings Report. This estimated income may be used to calculate an overpayment on a month-by-month basis.

(3) If income-averaging results in a calculated overpayment and the client requests a hearing, give the client every opportunity to supply verification of actual income during the period in question.

(4) A Division investigator may assist in obtaining income verification:

(a) For all clients who request hearings or are prosecuted for IPV; and

(b) When the Division requests an IPV hearing.

Stat. Auth.: ORS 411.060, 411.105, 411.620, 411.635, 411.690 & 411.816

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

461-195-0550

Notifying the Client of Overpayment

The Division will give or mail notification of overpayments, specifying the amount of the overpayment, the reason for the overpayment, the calculation of the overpayment, and the right to a hearing on the determination of overpayment, to:

- (1) Each liable primary person or adult.
- (2) Each liable child care provider.
- (3) For FS, each liable drug/alcohol treatment center or RCF acting as the client's authorized representatives.

Stat. Auth.: ORS Ch. 411.060

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 13-1990, f. 5-25-90, cert. ef. 6-1-90; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95

461-195-0560

Referrals of Possible Fraud

- (1) The Division may investigate any of the following for possible fraud or IPV in obtaining program benefits:
 - (a) A client;
 - (b) A former client;
 - (c) A person who has applied for benefits;
 - (d) A child care provider;
 - (e) A drug/alcohol treatment center or RCF acting as an FS client's authorized representative.
- (2) The Division may ask appropriate legal authorities to initiate civil or criminal prosecution under Oregon laws when, in the Division's judgment, all available evidence warrants such action.

Stat. Auth.: ORS Ch. 411.060

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 26-1990, f. & cert. ef. 11-29-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 23-1995, 9-20-95, cert. ef. 10-1-95

461-195-0570

Establishing IPV or Fraud Claims

For ADC, ERDC and FS, the final determination of an IPV or fraud claim is established only when one of the following occurs:

- (1) A court of appropriate jurisdiction finds that an individual has committed an IPV or fraud.
- (2) On a case referred for prosecution, the individual acknowledges the IPV or fraud and consents to the appropriate disqualification period by signing the designated form for such cases.
- (3) When the case has not been prosecuted for the alleged offense, and the Division has decided not to seek prosecution, an IPV can also be established by:
 - (a) An administrative hearing officer finding, following a hearing, that a client or child care provider has committed an IPV; or
 - (b) A client or child care provider signing the designated form for acknowledging the IPV and waiving the right to a hearing. There is no administrative appeal after the person waives their right to an IPV hearing, and the penalty cannot be changed by a subsequent hearing decision. However, the person is entitled to:
 - (A) Seek relief in court.
 - (B) A hearing on the sole issue of whether the client or child care provider signed under duress, in accordance with OAR 461-025-0310.
- (i) The person must request such a hearing within the time period provided in OAR 461-025-0310(1)(h).
- (ii) If the client or child care provider prevails at such a hearing, the Division may still seek to establish an IPV for the alleged violation, either by initiating an IPV hearing or by offering the person an opportunity to sign a new waiver.

Stat. Auth.: ORS 411.060

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 13-1990, f. 5-25-90, cert. ef. 6-1-90; AFS 8-1991, f. 3-27-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 19-1997, f. & cert. ef. 10-1-97

461-195-0572

Recovering Fraud Overpayments

- (1) For all programs except OSIP and OSIPM, the Division has a cause of suit or action against anyone who fraudulently obtains program benefits or helps someone do so.
- (2) The Division may file a civil suit to recover the overpayment from the client or any person who helped the client create the fraud.
- (3) If a client transfers property in order to qualify for program benefits, the Division may:
 - (a) Initiate appropriate action, including appointing and EAU conservator, to convey property back to its owner; and
 - (b) Establish the Division's security interest in the property.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-195-0574

Recovering Fraud Overpayments; OSIP, OSIPM

(1) For OSIP and OSIPM, the Division has a cause of suit or action against anyone who fraudulently obtains program benefits.

(2) The Division may file a civil suit to recover the overpayment from the client.

(3) Unrecovered overpayments may be collected from the estate of the person who committed the fraud.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-195-0576

Criminal Penalty for Fraud

The Division may refer to prosecution anyone who obtains program benefits through fraud or helps someone do so. A conviction of fraud will result in criminal penalties.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-195-0580

Penalty for IPV

(1) For ADC and FS, when an IPV is established against a client (except for IPVs established per section (2), (3) or (4) of this OAR):

(a) That person is liable for repayment to the Division of the full amount of overpayment the Division has established, regardless of any restitution amount ordered by a court.

(b) The client is disqualified from receiving benefits in the program in which the IPV was incurred for a period of 12 calendar months for the first IPV, 24 calendar months for the second IPV and permanently for the third IPV.

(c) In addition when calculating FS benefits, when a cash payment is reduced or ends due to this penalty, count the amount the cash payment would be if the penalty had not been imposed for the duration of the penalty.

(2) When an IPV is established against any person found guilty of trading FS benefits for firearms, ammunition, explosives or controlled substances, that person is disqualified from receiving FS benefits:

(a) For a period of 24 calendar months for the first IPV and permanently for the second IPV for involvement in the sale of a controlled substance for FS benefits.

(b) Permanently for the first IPV involving the sale of firearms, ammunition or explosives for FS benefits.

- (3) When an individual is convicted of trafficking FS benefits of \$500 or more, that person is permanently disqualified from receiving FS benefits.
- (4) When an individual is found by a State agency or is convicted in a Federal or State court of having given false information about identity or residence in order to receive multiple FS benefits simultaneously, that person is disqualified from receiving FS benefits for 10 years for the first and second offenses, and permanently for any subsequent offense.
- (5) Clients will be subject to an IPV disqualification only if the Division advised them of the disqualification penalties before they committed the violation. Additionally for ADC, the violation must have been committed after November 1, 1988.
- (6) Because part of establishing an IPV is informing the client of what actions constitute IPVs, once an IPV has been established, a subsequent IPV action occurs when the client:
 - (a) Continues the same action that caused the established IPV; or
 - (b) Commits a new IPV action.
- (7) The requirements under (5) do not apply to the individual's liability to repay the specified overpayment amount. The individual will be liable for repayment regardless of when the overpayment occurred.
- (8) The Division will apply disqualification penalties only to the individual(s) against whom an IPV is established and not to other people in the filing group.
- (9) Effective November 15, 1995, the period of disqualification begins the first of the month following the month in which the notice period ends.
- (10) Once a disqualification period begins, it continues uninterrupted until completed, regardless of the eligibility of the disqualified person's filing group. However, the group continues to be responsible for repaying the overpayment regardless of its eligibility for the program.
- (11) The disqualified person is removed from the need group. In addition, FS clients disqualified for an IPV are not eligible for Food Distribution Program benefits during their disqualification period.
- (12) An IPV disqualification established in another state will continue in Oregon. Likewise, an IPV disqualification established in Oregon should continue in another state.

Stat. Auth.: ORS 411.060

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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 8-1991, f. 3-27-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; 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 33-1995(Temp), f. & cert. ef. 11-22-95; 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; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97

461-195-0590

Recovery of Overpayments

- (1) Any overpayment amount, unless resulting from administrative technical error, is a debt and a delinquent account owed to the State of Oregon, and is subject to collection.

(2) For all programs except FS, the Division will recover the overpayment amount from the following liable people or groups:

(a) People included in the benefit group when the overpayment was incurred, except for people who did not reside with, and did not know they were included in, the benefit group;

(b) The caretaker relative and their spouse, if they resided with the filing group when the overpayment was incurred;

(c) The benefit group, even if there is a change in payee. If any member of the overpaid group, including a child, is eligible for benefits and is included in another group, the Division may recover the overpayment from that group's benefits, but only if all of the following are true:

(A) The recovery is limited to only the amount of overpayment incurred when the member actually resided with, and was included in, the overpaid benefit group;

(B) The Division does not recover the overpayment from benefits in any program other than the program in which the overpayment was incurred;

(C) The Division is not currently recovering the overpayment from people who were included as adults in the overpaid benefit group;

(D) The Division has already tried to recover the overpayment from people who were adult members of the overpaid benefit group.

(d) Additionally for child care programs, from the child care provider, if the overpayment resulted from information the provider supplied or failed to supply.

(3) For FS, the Division will recover the overpayment amount:

(a) From the primary person and all adults who were members of the filing group when FS benefits were overissued. The Division will establish a claim against each liable benefit group member for the full amount of overissuance incurred while each person was a member;

(b) From any filing group currently receiving FS benefits that contains an individual who was a liable member of another filing group when the group incurred a FS overpayment;

(c) From each liable drug/alcohol treatment center or RCF acting as the client's authorized representative;

(d) By offsetting the full amount of the overpayment against restored benefits owed to the benefit group or to another FS benefit group that a liable member of the overpaid group has joined.

(4) The Division will not take collection action if any of the following are true:

(a) The full amount of the overpayment has been repaid;

(b) Collection action would prejudice a case that has been referred for prosecution;

(c) A member of the filing group is working under a JOBS Plus agreement. Once the JOBS Plus placement ends, the Division will pursue collection of any overpayments.

(5) If a court finds that any filing group or other party has committed an IPV, the matter of restitution will be brought before the court. The Division will take collection action for the full amount of the loss even if any of the following is true:

(a) The court's decision does not address restitution;

- (b) The amount of restitution ordered is less than the amount of the claim;
- (c) Prosecution results in confinement.
- (6) Any uncollected overpayment amount will remain collectible by the Division until paid in full.

Stat. Auth.: ORS Ch. 411.060

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 15-1990, f. 6-27-90, cert. ef. 7-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95

461-195-0595

Recovering Overpayments by Confession of Judgment

When an overpayment is determined to be client error, the client may choose to grant the Division a Confession of Judgment. The Confession of Judgment is a legal document the Division may file with a court of appropriate jurisdiction. The Division will not file the document until the client's cash benefits end, and the client has either refused to agree to or has defaulted on a reasonable plan to satisfy the overpayment.

Stat. Auth.: ORS Ch. 183, 411, 414, 416 & 418

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-195-0610

Collecting Overpayments

- (1) For all programs, the Division may recover overpayment amounts from the following sources or from any other source permitted by law:
 - (a) Any money due the debtor through the state Department of Revenue or any other state agency.
 - (b) Reimbursement from the client, by cash, money order, certified check or personal check made payable to AFS, or payment from an EBT account if authorized by the client.
 - (c) The amount of any retroactive payment or restoration of lost benefits otherwise payable to the client, when the retroactive payment is to correct a past underpayment of benefits in the program in which the overpayment occurred.
 - (d) Except as provided in sections (4) and (5) of this OAR, reduction of ongoing benefits, to the extent allowable by law or OAR, in the program in which the overpayment occurred.
 - (e) Filing civil action to obtain a court judgment for the amount of the debt.
- (A) The Division may also assert a claim for costs and disbursements associated with obtaining a court judgment for the debt.
- (B) When a claim amount is awarded, the Division will collect this amount in addition to the overpayment amount, using the methods of recovery allowable under state law and administrative OAR.

- (f) Attaching income, resources, and real property when a judgment has been obtained.
 - (g) Additionally for FS, any federal payments due the debtor, to the extent allowable under federal law and regulations.
- (2) For all programs except ADCM, FS, OSIPM, and QMB, the Division also may recover overpayment amounts from the following sources:
- (a) The value of any liquid assets the client currently has (i.e., cash and paper assets that can be quickly converted to cash).
 - (b) The program-specific sources specified in Sections (3) through (6) of this OAR.
- (3) For overpayments in ADC-BAS and REF, the Division also may recover the overpayment amount from:
- (a) Allowing half of the 50% earned income deduction.
 - (b) Mandatory reduction of future benefit payments for ADC-BAS and REF, in an amount equal to 10% of the benefit group's total benefit requirement at the standard of need. The benefit payment after such reduction, when combined with all other income (before allowing the 50% earned income deduction), will be sufficient to provide the benefit group with 90% of the standard for a family with no income. For ADC-BAS, the cooperation incentive special need is not included in the benefit amount when calculating the 10% benefit reduction.
- (4) For overpayments of ADC-BAS or REF child care payments caused by client error, client fraud, or administrative error based on information supplied by the client, the Division may recover overpayments from any source listed in section (1) of this OAR except reduction of future ADC-BAS or REF benefits.
- (5) For ERDC overpayments caused by client error, client fraud, or administrative error based on information supplied by the client, the Division may recover overpayments from any source listed in section (1) of this OAR except reduction of future ERDC benefits.
- (6) For all child care overpayments caused by provider error, provider fraud, or administrative error based on information supplied by the provider, the Division also may recover payments from 100 percent of future child care payments for which the provider bills the Division, regardless of whether such billings are related to the case(s) on which the provider incurred the overpayment. This is limited to the specific child care program in which the overpayment occurred.
- (7) For overpayments in GA, GAM, and OSIP, the Division also may recover the overpayment amount from reduction of cash benefit payments in an amount equal to whichever of the following is less:
- (a) The total overpayment amount.
 - (b) The total benefit amount.
 - (c) Ten percent of the client's total benefit requirement at the standard of need.
- (8) Overpayments not immediately recoverable from a source specified in this OAR are subject to recovery without regard to whether benefits have ended or the client has changed programs in the interim.

Stat. Auth.: ORS 411.060

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 15-1990, f. 6-27-90, cert. ef. 7-1-90; AFS 8-1991, f. 3-27-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 5-1992(Temp), f. & cert. ef. 3-4-92; 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 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97

461-195-0640**Collecting FS Claims**

- (1) ORU will collect payments from any filing group currently participating in the program, by reducing the benefit group's FS allotment each month. However, subject to the other provisions of this OAR, the group may avert allotment reduction and elect another repayment plan if ORU agrees.
- (2) The amount of FS that can be recovered each month through allotment reduction is as follows:
 - (a) For client or administrative error claims, 10 percent of the group's monthly allotment or \$10 per month, whichever is greater.
 - (b) For IPV claims, 20 percent of the group's monthly entitlement or \$10 per month, whichever is greater.
- (3) After a claim is established, ORU will mail or otherwise deliver a "first demand letter" to each liable adult in the filing group.
 - (a) For client or administrative error claims, the letter shall inform each liable adult of the following:
 - (A) That unless the group elects a method of repayment and informs ORU of its election within 20 days of the date of the demand letter, or timely requests a hearing and unreduced continued benefits, ORU will begin allotment reduction.
 - (B) The amount or percentage by which allotment reduction will reduce the group's benefits.
 - (C) That if the group timely elects allotment reduction, the reduction will begin with the first allotment issued thereafter.
 - (D) That if the group fails to make a timely election, ORU will begin the reduction with the first allotment issued after the 20-day period has expired.
 - (b) For claims where an IPV has been established, the letter shall inform each liable adult of the following:
 - (A) That unless the group elects a method of repayment and informs ORU of its election within 10 days of the date of the demand letter, ORU will begin allotment reduction.
 - (B) The amount or percentage by which allotment reduction will reduce the group's benefits.
 - (C) That if the group timely elects allotment reduction, the reduction will begin with the first allotment issued thereafter.
 - (D) That if the group fails to make a timely election, ORU will begin the reduction with the first allotment issued after the 10-day period has expired.
- (4) For client or administrative error claims where a hearing has already sustained the overpayment claim (even if the hearing changed the amount of the claim), a demand letter mailed or otherwise delivered by ORU shall inform each liable adult of the following:
 - (a) That unless the group elects a method of repayment and informs ORU of its election within 20 days of the date of the demand letter, ORU will begin allotment reduction.
 - (b) The amount or percentage by which allotment reduction will reduce the group's benefits.
 - (c) That if the group timely elects allotment reduction, the reduction will begin with the first allotment issued thereafter.
 - (d) That if the group fails to make a timely election, ORU will begin the reduction with the first allotment issued after

the 20-day period has expired.

(5) If the filing group requests to make a lump-sum cash, FS coupon or recovery from an EBT account as a full or partial payment of the claim, they may do so.

(6) ORU will negotiate an installment schedule with a filing group for any amounts of a claim that have not been paid by a lump-sum payment or collected by allotment reduction. The payments made in installments may be accepted by ORU or the branch office. These payments will be made in regular monthly installments. The filing group may also use FS coupons or recovery from an EBT account as a full or partial payment of any installment.

(7) If a filing group fails to make a repayment:

(a) ORU will send them a notice explaining that no payment or an insufficient payment was received. The notice will inform the group that they may contact ORU to discuss renegotiating the payment schedule. The notice will also inform them that if they do not make the payment or contact ORU, their allotment will be reduced.

(b) If the group responds to the notice and makes the overdue payment, ORU will continue to allow the group to make installment payments.

(c) If the filing group requests renegotiation and ORU concurs, ORU may set up a new payment schedule.

(d) If the group requests renegotiation of the repayment schedule but ORU feels that their economic circumstances have not changed enough to warrant it, ORU has the option of invoking allotment reduction against a currently participating filing group.

(e) If a currently participating benefit group has agreed to a repayment schedule, ORU will ensure that the negotiated amount to be repaid each month is not less than the amount that could be recovered through allotment reduction.

(8) If the filing group fails to meet the repayment arrangement, ORU will revert to allotment reduction for repayment.

(9) If the full or remaining balance of the claim cannot be collected in full within 36 months, ORU may compromise the claim by reducing it to an amount that will allow the filing group to pay the claim within 36 months.

(10) The Division may offset the amount of the claim against any amount of lost benefits not yet restored to the filing group.

(11) The Division may waive collection of a claim of \$125 or less for a filing group not getting FS benefits.

(12) ORU and the filing group can renegotiate the repayment schedule if both believe that the filing group's economic circumstances have changed enough to warrant such action.

(13) In addition to other methods of collecting payment, ORU may recover claim amounts by referring the claim to:

(a) The Department of Revenue for SOIL or ERA collection per ORS 293.250.

(b) The federal Treasury Offset Program, as provided under federal law and regulations, for collection from federal payments claimed by liable persons.

Stat. Auth.: ORS 411.060

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 13-1992, f. & cert. ef. 5-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97

461-195-0650

Recovery by SOIL

- (1) For all programs, ORU recovers overpayments by using collection services provided by the Department of Revenue or any other state or federal agency.
- (2) ORU refers overpayment accounts to the Department of Revenue when a liquidated claim is established. A liquidated claim is established when the Division's records contain any of the following documents:
 - (a) A court judgment.
 - (b) A confession of judgment.
 - (c) A written notification of overpayment from the Division signed by the debtor.
 - (d) A written notification of overpayment from the Division to the debtor, advising the debtor of the basis and amount of the overpayment and the right to request a hearing, if:
 - (A) The debtor does not request a hearing in accordance with administrative OARs; or
 - (B) The requested hearing has been held, any available appeal completed, and the overpayment amount has been affirmed.
 - (e) A written communication from the debtor acknowledging the debt.
 - (f) Any of the following documents, signed by the debtor:
 - (A) The Division-designated form to acknowledge an IPV.
 - (B) A plea-bargain agreement.
 - (C) Any other document specifying the overpayment.
- (3) ORU will credit the debtor's overpayment account for the full amount collected by the Department of Revenue or other state or federal agency making a collection. ORU will be responsible for any collection fee assessed by the agency making the collection.

Stat. Auth.: ORS 411.060

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 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 9-1997, f. & cert. ef. 7-1-97

461-195-0660

Bankruptcy Filings on Overpayment Cases

- (1) ORU will act on behalf of the Division in any bankruptcy proceeding against filing groups owing an overpayment.
- (2) ORU will possess any rights, priorities, interests, liens or privileges, and will participate in any distributions of assets.
- (3) ORU will have the power and authority to file objections to discharge, proofs of claim, exceptions to discharge,

petitions for revocation of discharge, and any other documents, motions or objections filed with the court.

Stat. Auth.: ORS 293.250, 411.060, 411.105, 411.620, 411.635, 411.690 & 411.816

Stats. Implemented: RS 411.620, 411.630, 411.632, 411.635, 411.640

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90

461-195-0710

Voluntary Reimbursements

The Adult and Family Services Division, including its Branch Offices, shall accept voluntary reimbursements regardless of accrual rights.

Stat. Auth.: ORS 411.060 & 411.220

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: PWC 612, f. & ef. 6-30-71; AFS 81-1989, f. 12-27-89, cert. ef. 1-1-90; Renumbered from 461-10-700

461-195-0720

Distribution of Reimbursements

The Adult and Family Services Division shall pay all funds received as reimbursements and recoveries to the United States and to the State of Oregon, as their interests may appear.

Stat. Auth.: ORS 411.060 & 411.220

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: PWC 612, f. & ef. 6-30-71; AFS 81-1989, f. 12-27-89, cert. ef. 1-1-90; Renumbered from 461-10-705

461-195-0800

Conducting Contested Case Hearings

The following Attorney General's Model Rules as revised November 4, 1993, are adopted by the Adult and Family Services Division for contested cases brought under ORS Chapter 416: OARs 137-003-0002, 137-003-0003, 137-003-0035, 137-003-0050 & 137-003-0055. The division has adopted additional rules amending the model rules regarding the conduct of its ORS Chapter 416 contested case proceedings at OAR 461-195-0810 through 461-195-0930.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0810

Definitions

For purposes of OAR 461-195-0810 to 461-195-0930, the following words have the meanings indicated:

- (1) "Presiding Officer" means the hearings officer appointed by the Employment Department hearing section to conduct a hearing regarding the issues raised by the contested case notice.
- (2) "Division" means the Support Enforcement Division of the Department of Justice or the office of a district attorney.
- (3) "Interested agencies" include a public child support agency of another state.
- (4) "Party" includes the physical custodian of a child, the person against who a support order is sought, the State of Oregon, and any individual who has the right to receive support.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0820

Contested Case Notice

In addition to the requirement of ORS 183.415(2), a contested case notice may include a statement that the record of the proceeding to date, including information in the division file or files on the subject of the contested case, automatically becomes part of the contested case record upon default for the purpose of proving a prima facie case.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0830

Requests for Hearing

- (1) A request for hearing pursuant to ORS 416.415, et seq., shall be in writing and signed by either a party, a party's attorney or the division.
- (2) A request for hearing may be made on a form provided by the division and shall contain the party's residence, a mailing or contact address, a telephone number where the party can be contacted and the reasons for objection to the contested case notice. The request for hearing form shall be provided with the contested case notice.
- (3) A request for hearing shall be made within the time provided by statute. For purposes of determining whether a request has been timely made, the date of the request shall be the postmark date affixed by the U.S. Postal Service. If no postmark date is affixed or readable, the date of the request shall be the most probable date of mailing as determined by the presiding officer. If the division does not forward a request for hearing pending resolution of a paternity issue, the request for hearing is considered timely even if the request is not forwarded until the paternity issue is resolved.
- (4) An amended contested case notice issued by the division does not nullify a request for hearing made pursuant to any previous contested case notice in the same case, and a request for hearing for an amended contested case notice is not

required.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0840

Notification of Request

After receipt of the request for hearing, the division shall forward the following documents to the Employment Department Hearing Section, and to all parties or their attorneys of record:

- (1) The contested case notice;
- (2) Each party's own return of service, if any, for the contested case notice;
- (3) The request for hearing;
- (4) The income information relied upon by the division in calculating the child support amount, including the source of the information, the period of time for which the income information was obtained, and the name and address of the employer, if any;
- (5) Any other documents relating to issues to be resolved at the hearing.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0850

Notice of Hearing

- (1) After receipt of a request for hearing, a hearing will be scheduled. Notification of hearing shall be provided in writing to all parties. Within 30 days of a written request for hearing, notification shall be sent to all parties notifying them of the date and time set for hearing. Notification of the hearing shall be given in person or sent by mail at least 10 calendar days in advance of the hearing.
 - (a) Notice to the party requesting the hearing is accomplished if it is mailed, as provided above, to the address disclosed by the request for hearing.
 - (b) Notice to a party who did not request the hearing is accomplished if it is mailed to the address of record of such party as that address is reflected on the child support case record as maintained by the Department of Human Resources.
 - (c) If the State of Oregon is the responding jurisdiction in an interstate case, notice to the party who has not requested the hearing shall be given by providing notice to the initiating state. Notice to the initiating state is accomplished if it is mailed to the agency which initiated the interstate referral.
 - (d) When there is an attorney of record for a party, notice of hearing sent to the attorney constitutes notice to the party.

- (2) The notice shall include the time, date and place for hearing, whether or not the hearing will be conducted by telephone, and a general statement of the issues to be resolved at the hearing.
- (3) The hearing Section may consolidate two or more hearings whenever it appears that this will not unduly complicate the issues or jeopardize the rights of the parties.
- (4) Whenever evidence or contested case documents are provided to the hearings section of the Employment Department, copies of such evidence or documents will be sent to the parties or their attorneys of record with a notation that copies have been sent to all parties.
- (5) If the division is providing continuation of services pursuant to 45 CFR § 302.33 (a)(4) and OAR 461-195-0055, and the obligee requests case closure pursuant to 45 CFR § 303.11 and OAR 461-195-0050, the division shall promptly notify all parties and the hearings section. The division and the hearings section shall ensure the provisions of OAR 461-195-0050 have been met before entering any final order.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0860

Discovery in Contested Cases

- (1) In his or her discretion, and if a hearing has been requested, a presiding officer may order discovery as requested by the division or any party in appropriate cases. This rule does not require the presiding officer to authorize any discovery. If the presiding officer does authorize discovery, the presiding officer shall control the methods, timing and extent of discovery, but nothing in this rule prevents informal exchanges of information.
- (2) Discovery may include but is not limited to one or more of the following:
 - (a) Depositions;
 - (b) Disclosure of names and addresses of witnesses expected to testify at the hearing;
 - (c) Production of documents, which may but need not be limited to documents which the party producing plans to offer as evidence;
 - (d) Production of objects for inspection;
 - (e) Requests for admissions;
 - (f) Written interrogatories;
 - (g) Prehearing conferences, as provided in OAR 137-003-0035.
- (3) Before requesting a discovery order, a party must seek the discovery through an informal exchange of information.
- (4)(a) A party that seeks to take the testimony of a material witness by deposition shall file a written request with the hearings section of the Employment Department. The request shall set forth the name and address of the witness, a showing of materiality of the witness's testimony, an explanation of why a deposition rather than informal or other means of discovery is necessary, and a request that the witness's testimony be taken before an officer named in the request for the purpose of recording testimony.

(b) For all other forms of discovery, a request for a discovery order must be in writing and must include a description of the attempts to obtain the requested discovery informally. The request shall be mailed or delivered to the hearings section of the Employment Department, with a copy to other parties. The presiding officer shall consider any objections by the party from whom discovery is sought.

(5) Any discovery request must be reasonable likely to produce information that is generally relevant to the case. If the relevance of the requested discovery is not apparent, the presiding officer may require the party requesting discovery to explain how the request is likely to produce relevant information. If the request appears to be unduly burdensome, the presiding officer may require an explanation of why the requested information is necessary or is likely to facilitate resolution of the case.

(6) The presiding officer shall issue an order granting or denying a discovery request in whole or in part.

(7)(a) A presiding officer, an attorney of record for the Support Enforcement Division or the district attorney may issue subpoenas and may apply to the circuit court to compel obedience to a subpoena.

(b) A party or an attorney of record for a party may issue subpoenas based on a discovery order and may apply to the circuit court to compel obedience to a subpoena.

(8) The presiding officer may refuse to admit evidence which has not been disclosed in response to a discovery order, unless the party that failed to provide discovery offers a satisfactory reason for having failed to do so or unless excluding the evidence would violate the duty to conduct a full and fair inquiry under ORS 183.415(10). If the presiding officer admits evidence which was not disclosed as ordered, the hearing shall be continued upon the request of any party, the division, or the presiding officer for sufficient time to allow the party or division to obtain, review and respond to the evidence.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0870

Hearing

(1) The presiding officer shall conduct and control the hearing. Hearings may be by telephone or in person.

(2) Parties may represent themselves or have legal counsel represent them. The presiding officer, parties or their attorneys, and those appearing for the division have the right to question and examine or cross-examine any witnesses.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0880

Telephone Hearings

(1) Unless precluded by law, the presiding officer may, in his or her own discretion, hold a hearing or portion of a

- hearing by telephone. Nothing in this rule precludes a presiding officer from allowing some parties or witnesses to attend by telephone while others attend in person.
- (2) The presiding officer may direct that a hearing be held by telephone upon request or upon the presiding officer's own motion.
 - (3) The presiding officer shall make an audio or stenographic record of any telephone hearing.
 - (4) Prior to commencement of an evidentiary hearing that is held by telephone, each party and the division shall provide to all other parties and to the presiding officer copies of documentary evidence sought to be introduced into the record.
 - (5) Nothing in this rule precludes any party or the division from seeking to introduce documentary evidence in addition to evidence described in section (4) of this rule during the telephone hearing and the presiding officer shall receive such evidence, subject to the applicable rules of evidence, if inclusion of the evidence in the record is necessary to conduct a full and fair hearing. If any evidence introduced and received during the hearing has not previously been provided to the division and to the other parties, the hearing shall be continued upon the request of any party, the division, or the presiding officer for sufficient time to allow the party or the division to obtain and review or respond to the evidence.
 - (6) The presiding officer has the discretion to rule on issues raised under this rule.
 - (7) As used in this rule, "telephone" means any two-way electronic communication device.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0890

Conducting Contested Case Hearing

- (1) If the presiding officer has a potential conflict of interest as defined in ORS 244.020(4), that officer shall comply with the requirements of ORS Chapter 244 (e.g. ORS 244.120 and 244.130).
- (2) The hearing shall be conducted, subject to the discretion of the presiding officer, so as to include the following:
 - (a) The statement and evidence of the proponent in support of its action;
 - (b) The statement and evidence of the opponents, interested agencies, and other parties;
 - (c) Any rebuttal evidence; and
 - (d) Any closing arguments.
- (3) The presiding officer shall make an audio or stenographic record of any hearing.
- (4) The hearing may be continued with recesses as determined by the presiding officer.
- (5) The presiding officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious, or immaterial matter.
- (6) Exhibits shall be marked and maintained by the presiding officer as part of the record of the proceedings.
- (7) If the presiding officer receives any written or oral ex parte communication on a fact in issue during the contested

case proceeding, that person shall notify all parties and otherwise comply with the requirements of OAR 137-003-0055.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0900

Evidence

- (1) The presiding officer may take official notice of the records of the Support Enforcement Division, the Employment Department, the Department of Human Resources, or other division records in making decisions.
- (2) If there is any evidence at a hearing, including division records, not previously provided to all parties, the presiding officer shall keep the record open for sufficient time to allow all parties to respond to the evidence.
- (3) Documents sent to parties through the U.S. Postal Service by regular mail are rebuttably presumed to have been received.
- (4) The state debt computation worksheet and state debt computation graph are prima facie evidence of public assistance records.
- (5) The cover sheet (Enforcing Agency Record) submitted with a hearings packet by the division and signed by the division's authorized representative is prima facie evidence of the division's computer records.
- (6) The support computation worksheet attached to the contested case notice or amended contested case notice, whichever is later, is prima facie evidence of the information contained therein.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0910

Presiding Officer's Order

- (1) After the conclusion of the hearing, the presiding officer shall promptly prepare a written order.
- (2) The presiding officer's order shall be in a form approved by the Employment Department, but shall always contain the following:
 - (a) The date of the order;
 - (b) A statement of jurisdiction;
 - (c) A statement of the issues and law involved;
 - (d) Findings of fact;

(e) Conclusions based upon the findings of fact and law, including a discussion on rebuttal evidence offered, regardless of whether a rebuttal has been allowed;

(f) An order setting forth the action to be taken;

(g) Notice to the parties that the matter may be appealed to circuit court. The notice shall include a statement that the matter must be appealed within 60 days from the date the order is docketed and must contain a citation to ORS 416.427;

(h) If the order constitutes a modification of a pre-existing order, and if the modification order does not grant relief effective the date the motion was filed, the reasons therefor;

(i) If the presiding officer's order constitutes a modification of an existing court order, the presiding officer's order shall contain a statement that the presiding officer's order does not modify any other provisions of the existing court order, except as expressly stated therein;

(j) The support computation worksheet on a form approved by the division.

(3) Copies of the presiding officer's order shall be personally delivered or mailed to the parties and the division at their last address of record.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0920

Final Orders by Default

(1) The division or the presiding officer, as appropriate, may issue a final order by default:

(a) When the division has given a party an opportunity to request a hearing and the party fails to make a request within a specified time;

(b) When the requesting party withdraws the request for hearing;

(c) When the hearings section has scheduled a hearing and the requesting party fails to appear at the specified time and place; or

(d) When the hearings section has scheduled a hearing in a matter in which only one party is before the division and that party subsequently notified the division or hearings section that the party will not appear at the specified time and place, unless the division has agreed to reschedule the hearing.

(2) A party who has requested a hearing but fails to appear for the hearing shall be presumed to have withdrawn the request for hearing.

(3) When the party has withdrawn a request for hearing, the presiding officer shall issue an order dismissing the hearing and allowing the division to issue a final order by default.

(4) The presiding officer or the division may issue a final order by default only after making a prima facie case on the record. The record shall be made at a scheduled hearing on the matter or, if the hearing is canceled or not held, the division may designate its file as the record at the time the contested case notice is issued in accordance with OAR 461-195-0820.

(5) The record may consist of oral (transcribed, recorded or reported) or written evidence or a combination of oral and written evidence. In all cases, the record must contain evidence that persuades the decision maker of the existence of facts necessary to support the order.

(6) The division or the presiding officer, as appropriate, shall notify all parties of the entry of a final order by default by delivering or mailing a copy of the order. If the contested case notice contained an order that was to become effective unless the party requested a hearing, and designated the division file as the record, that order becomes a final order by default if no hearing is requested or if the request for hearing is withdrawn, and no further order need be served upon the party. Nothing in this section requires personal service of a final order on a party.

(7) When a party other than the division has initiated a motion pursuant to ORS 416.425(2) and no request for hearing has been received, upon proof of service of the motion on all parties, the presiding officer may enter a default order granting the relief sought in the motion. The statements in this motion shall constitute a prima facie case for the purpose of taking a default order.

(8)(a) When a party requests a hearing after the time specified by the division in its contested case notice, but 60 days or less after the division or the presiding officer has entered a final order by default, the presiding officer may grant the request only if the cause for failure to timely request the hearing was beyond the reasonable control of the party, unless other applicable law provides a different standard. The presiding officer may require the request to be supported by an affidavit and may conduct such further inquiry, including holding a hearing, as it deems appropriate;

(b) If a final order by default has already been entered, the party requesting the hearing shall deliver or mail within a reasonable time a copy of the hearing request to all persons and agencies required by statute, rule, or order to receive notice of the proceeding. The party requesting the hearing shall include with the request for hearing delivered to the division or to the presiding officer, a statement that the non-requesting party has been provided, by regular mail, with a copy of the request for hearing. If the requesting party has not sent a copy of the request to the non-requesting party, the division or the presiding officer may do so;

(c) In any proceeding to consider whether to allow a late hearing request for the contested case subsequent to default, the presiding officer may take evidence and issue an order with regard to the issue of the late hearing request and with regard to the issues in the contested case notice. If the request is denied, the presiding officer shall enter an order setting forth its reasons for the denial;

(d) Any final order previously entered remains in effect pending a hearing allowed under this rule until stayed or changed;

(e) If a late hearing request is allowed, following hearing on the contested case issues, the presiding officer shall enter a new order, which may be an order affirming the existing default order.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-0925

Filing and Docketing of Administrative Orders

For the purposes of determining in which Oregon county the enforcing agency must file and docket an administrative order under ORS 416.400 to 416.470, the following provisions shall apply:

(1) If the administrative order is to establish support and/or paternity and the child is not in the care of the state, the order shall be filed and docketed in the county in which the child resides.

(2) If the administrative order is to establish support and/or paternity and the child is in the care of the state or resides out of state, the order shall be filed and docketed in the county in which the obligor resides.

(3) If the administrative order is one that modifies an underlying judicial order or if there is any previous Oregon order docketed in Circuit Court, the order shall be filed and docketed in the same county as the underlying judicial order.

(4) Notwithstanding any other provision of this rule, nothing in this rule precludes filing liens in other Oregon counties pursuant to ORS 18.320, or transferring judgments pursuant to ORS 25.100 or 107.449.

Stat. Auth.: ORS 18.320, 25.080, 409.020, 411.60, 416.435 & 416.440

Stats. Implemented: ORS 416.435 & 416.440

Hist.: AFS 38-1995, f. 12-4-95, cert. ef. 12-15-95

461-195-0930

Reconsideration and Rehearing

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

(a) "Reconsideration" means a review of the entire record and evidence presented therein to determine whether a proper conclusion has been reached;

(b) "Rehearing" means a review of the record and evidence which may be limited to specific issues by the presiding officer, and new evidence may be presented if such evidence was not available at the time of hearing.

(2) A party may file a petition for reconsideration or rehearing of a final order, except a final order by default, in a contested case with the presiding officer within 60 days after the order is served. A copy of the petition shall also be delivered or mailed to all parties or other persons and agencies required by statute, rule, or order to receive notice of the proceeding. The party petitioning for the reconsideration or rehearing shall include with the petition a statement that the non-requesting party has been provided, by regular mail, with a copy of the petition. If the presiding officer determines that a party, person or division has not been sent a copy of the petition, the presiding officer may cause such petition to be sent before proceeding.

(3) The petition shall set forth the specific grounds for reconsideration or rehearing. The petition may be supported by a written argument.

(4) A rehearing may be limited by the presiding officer to specific matters.

(5) The presiding officer will promptly consider a petition for reconsideration or rehearing and may consider the petition as a request for either or both. The petition may be granted by summary order and, if denied, the presiding officer shall enter an order setting forth the reason(s) for denial.

(6) Within 60 days after the order is served, the presiding officer may, on his or her own initiative, reconsider the final order or rehear the case. The procedural and substantive effect of reconsideration or rehearing under this subsection shall be identical to the effect of granting a party's petition for reconsideration or rehearing.

(7) Reconsideration or rehearing shall not be granted after the filing of a petition for judicial review, except in the manner provided by ORS 183.482(6).

(8) A final order remains in effect during reconsideration or rehearing until stayed or changed.

(9) Following reconsideration or rehearing, the presiding officer shall enter a new order, which may be an order affirming the existing order.

Stat. Auth: ORS 183.325, 183.341, 409.020 & 411.060

Stats. Implemented: ORS 25.020, 25.080, 409.020 & 411.060

Hist.: AFS 5-1995, f. & ef. 2-6-95

461-195-1000

Reopening of Paternity Cases

(1) When a party claims that a man established as the father of a child in fact is not the biological father of the child, the Support Enforcement Division or the District Attorney (hereafter referred to as enforcing agency) shall open or reopen the issue of paternity when all of the provisions of subsection (a) through (f) of this section apply:

(a) The enforcing agency administratively initiated the action which established paternity or paternity was established by a signed voluntary acknowledgment in Oregon;

(b) Parentage (genetic) tests have not been conducted;

(c) The order was docketed with the circuit court one year ago or less, or the State Registrar of Vital Statistics' voluntary acknowledgment was filed with the State Registrar of Vital Statistics one year ago or less;

(d) Neither party asserts that the conclusive presumption of paternity created by ORS 109.070 applies;

(e) The party applying has completed and returned to the enforcing agency a request for reopening prior to expiration of the one year period;

(f) The enforcing agency has jurisdiction over the parties.

(2) If at any point during the process, the enforcing agency obtains information and verifies that the criteria in subsections (1) (a), (b), (d), (e) or (f) of this rule are no longer met, the enforcing agency will make a determination and will send the affected parties written notification within 10 days of verifying the information.

(3) The party who requested parentage tests shall reimburse the enforcing agency for the costs incurred by the enforcing agency for such tests, unless the male party in question is excluded.

(4) An order establishing paternity shall not be vacated, dismissed or set aside under this rule unless parentage tests exclude the male party in question as the father of the child, or a party fails to comply and the issue of paternity is resolved against that party. The enforcing agency shall not submit for the court's approval, any order granting relief which requires repayment to the debtor of money paid by that debtor under the order.

(5) Any judgment of nonpaternity under this rule shall be by circuit court order.

Stat. Auth.: ORS 25.020, 409.020, 411.060, 416.400-470, & Ch. 514 & Ch. 608, Oregon Laws 1995

Stats. Implemented: Ch. 514 & Ch. 608, Oregon Laws 1995

Hist.: AFS 29-1995, f. 11-6-95, cert. ef. 11-15-95

461-195-1010

Establishment of Past Support Orders

(1) For purposes of this rule the following definitions shall apply:

(a) "Past support" means the amount of child support that could have been ordered based on the Oregon Child Support Guidelines and accumulated as arrears against a parent for the benefit of a child for any period of time during which the child was not supported by the parent and for which period no support order was in effect.

(b) "Supported by the parent" in subsection (a) of this section means payments in cash or in kind in amounts or in-kind value equal to the amount that would have accrued under the Oregon Child Support Guidelines from the non-custodial parent to the custodial parent or other custodial adult for purposes of support of the child(ren).

(c) The Oregon Child Support Guidelines means the formula for calculating child support specified in OAR 137-050-0320 through 137-050-0490.

(2) The Support Enforcement Division (SED) and district attorney (DA) offices that contract with the Department of Human Resources to provide child support services under title IV-D of the Social Security Act may establish "past support" when establishing a child support order under ORS 416.400 - 416.470.

(3) When a non-custodial parent has made payments in cash or in kind to a custodial parent or other custodial adult for the support of the child(ren) during the period for which a judgment for past support is sought, and providing that those payments were in amounts equal to or exceeding the amount of support that would have been presumed correct under the Oregon Oregon Child Support Guidelines, no past support shall be ordered.

(4) When such payments as described in section (3) of this rule were made in amounts less than the amount of support presumed correct under the Oregon Child Support Guidelines, the amount of the past support judgment shall be the correct amount presumed under the Oregon Child Support Guidelines minus any amounts of support paid.

(5) The non-custodial parent must provide evidence of such payments as described in sections (3) and (4) of this rule by furnishing copies of:

(a) Canceled checks;

(b) Cash or money order receipts;

(c) Any other type of funds transfer records;

(c) Merchandise receipts:

(e) Verification of payments from the custodial parent or other custodial adult;

(f) Any other record of payment deemed acceptable by SED or the DA.

(6) It shall be within the discretion of SED or the DA to determine whether to accept evidence of such cash or in-kind support payments for purposes of giving credit for them. If either party disagrees with this determination, the support determination may be appealed to an Employment Department Hearing Officer per ORS 416.427.

(7) Past support may not be ordered for any period of time prior to the later of:

(a) October 1, 1995; or

(b) The date of the initiation of IV-D services from any state by application for services; or in case of a mandatory referral based on the receipt of public assistance or foster care services, the date of the referral to the Child Support Program.

(8) If the support case was initiated from another state, the date of application for services shall be considered to be either:

(a) The date the initiating state requests past support to begin but not before October 1, 1995; or

(b) If the initiating state requests that past support be established for multiple periods of time, the beginning date of the most recent period but not before October 1, 1995; or

(c) If the initiating state does not specify a beginning date for past support, the date of the initiating petition but not before October 1, 1995.

(9) Where IV-D services did not produce a support order and IV-D services were terminated by the applicant or by the IV-D agency per state and federal regulations and subsequently IV-D services were initiated again, SED or the DA shall not establish past support prior to the date of the most recent initiation of IV-D services. If an initiating state requests that past support be established for two or more periods of time, past support shall be established only for the most recent period.

(10) If there is or was a support order in existence in any state for the non-custodial parent to pay support to the obligee for the same child(ren), no order for past support shall be entered for a period of time before entry of the support order already or previously existing.

(11) Where the order to be entered is for past support only and does not include current support and the past support would be owed only to the State of Oregon or another state, SED or the DA shall not enter an order for past support for a period of less than four months.

(12) Past support shall be calculated per the Oregon Child Support Guidelines and shall use current income for the parties in calculating past support monthly amounts. Parties may rebut use of current income by presenting evidence of income in differing amounts for the months for which past support is being ordered.

Stat. Auth.: ORS 25.080; 409.20, 411.60; Ch. 514, Oregon Laws 1995

Stats. Implemented: Ch. 514, Oregon Laws 1995

Hist.: AFS 28-1995, f. 11-2-95, cert. ef. 11-3-95

Uniform Interstate Family Support Act

461-195-2300

General Statement

OAR 461-195-2300 to 461-195-2380 constitute the guidelines for processing interstate IV-D child support cases initiated after December 1, 1994, under the provisions of ORS Chapter 110, Uniform Interstate Family Support Act (UIFSA) and Uniform Reciprocal Enforcement of Support Act (URESAs).

Stat. Auth.: ORS 25.010 - 25.990, 109.250 & 109.264, 110.005 & 110.441, 409.020, 409.050, 411.060, 416.400 & 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2310

Central Registry

- (1) The interstate central registry as provided for at 45 CFR 303.7, is established within the Department of Justice, Support Enforcement Division. It is responsible for receiving, distributing and responding to inquiries on all incoming interstate IV-D cases, including URESA and UIFSA petitions, electronic referrals, and requests for interstate income withholding in IV-D cases.
- (2) Within ten working days of receipt of an interstate IV-D case from an initiating state, the central registry shall:
 - (a) Ensure that the documentation submitted with the case has been reviewed to determine completeness;
 - (b) Forward the case for necessary action either to the State Parent Locator Service for location services or to the appropriate enforcing agency for processing;
 - (c) Acknowledge receipt of the case and ensure that any missing documentation has been requested from the initiating state; and,
 - (d) Inform the IV-D agency in the initiating state where the case was sent for action.
- (3) If the documentation received with a case is inadequate and cannot be remedied by the central registry without the assistance of the initiating state, the central registry shall forward the case for any action which can be taken pending necessary action by the initiating state.
- (4) The central registry shall respond to inquiries from other states within five working days from receipt of the request for a case status review.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2320

Initiating Oregon Enforcing Agency's Responsibilities (General Provisions)

- (1) The enforcing agency shall use long-arm jurisdiction to establish, enforce, or modify a support order, or to determine parentage whenever appropriate.
- (2) Except as provided in section (1) of this rule, within 20 working days of determining that the obligor is in another state, and, if appropriate, receipt of any necessary information needed to process the case:
 - (a) Refer any interstate IV-D information needed to process the case;
 - (b) Refer any interstate IV-D case to the responding state's interstate central registry for action, including URESA and UIFSA petitions and requests for location, document verification, administrative reviews in federal tax refund offset cases, interstate income withholding, and state income tax refund offset in IV-D cases.
- (3) Provide the IV-D agency in the responding state sufficient, accurate information to act on the case by submitting with each case any necessary documentation and either the Interstate Child Support Enforcement Transmittal form or the URESA/UIFSA Action Request forms package as appropriate. The enforcing agency may use computer generated replicas in the same format and containing the same information in place of the forms.

(4) Provide the IV-D agency or central registry in the responding state with any requested additional information or notify the responding state when the information will be provided within 30 calendar days of receipt of the request for information by submitting an updated form, or a computer-generated replica in the same format and containing the same information, and any necessary additional documentation.

(5) Notify the IV-D agency in the responding state within ten working days of receipt of new information on a case by submitting an updated form and any necessary additional documentation.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2330

Oregon as Initiating State -Establishing Paternity, Support, Health Insurance and Arrears

- (1) The enforcing agency shall use the provisions of ORS Chapter 25 in its entirety and ORS 109.252 to 109.264, 110.300 to 110.441 and 416.400 to 416.470 to establish paternity, support and/or health insurance in preference to all other remedies available under Oregon law.
- (2) Whenever possible, the enforcing agency shall attempt to establish jurisdiction of the Administrator over the parties by applying the facts in the case to the provisions of ORS 110.318 and attempting the one-state process.
- (3) When paternity is at issue, the enforcing agency shall obtain the affidavit of the mother naming the alleged father prior to initiating a legal action.
- (4) When a one-state process is not possible, the enforcing agency shall issue a UIFSA transmittal and any other documents required by federal law or rule (see ORS 110.330):
- (a) When the enforcing agency is aware of the existence of a support order with Continuing Exclusive Jurisdiction (CEJ), the agency shall seek enforcement of that order.
- (b) When the enforcing agency is not aware of the existence of a CEJ order, the agency shall seek establishment of an order.
- (c) When the responding jurisdiction has enacted UIFSA, the enforcing agency shall send a UIFSA petition which may be signed by an authorized representative of the enforcing agency.
- (d) When the responding jurisdiction has not enacted UIFSA, the enforcing agency shall send a URESA petition which shall be signed by an attorney, and a Certificate and Order signed by a circuit court judge.
- (5) Notwithstanding the provisions of section (4) of this rule, the enforcing agency may use any other non-UIFSA documents required by federal law or rule when initiating an interstate request to a non-UIFSA jurisdiction.
- (6) The enforcing agency shall complete the UIFSA documents as described by OCSE AT-94-01, January 28, 1994, and URESA documents described by OCSE AT-88-02 for all two-state transmissions.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2340

Direct Income Withholding - Oregon as the Initiating State

- (1) The enforcing agency shall not initiate direct income withholding to an employer located in another state when one of the following circumstances exist:
- (a) The employer is located in a state which has not adopted the direct withholding provisions of UIFSA;
 - (b) An interstate action against this obligor was previously initiated to the employer's state and has not been withdrawn;
 - (c) The enforcing agency is aware that more than one support order exists for this family unit and either:
 - (A) The order of continuing exclusive jurisdiction (CEJ) has not yet been determined; or,
 - (B) The arrears have not yet been reconciled on the orders;
 - (d) The underlying support order provides for health insurance which is not being voluntarily provided by the obligor;
- (2) Prior to issuing a direct income withholding order, the enforcing agency shall ensure that the obligor has received the same advance notice as is required on an intrastate withholding order.
- (3) If the obligor files a contest to the income withholding order in the employer's state, the Oregon enforcing agency who initiated the direct income withholding order shall assist that state in obtaining the information necessary to make a determination under Oregon law as to whether or not the withholding should be allowed.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2350

Responding Oregon Enforcing Agency Responsibilities - General Provisions

- (1) The Department of Human Resources (DHR) shall ensure that enforcing agencies comply with Oregon statutes and administrative rules governing the provision of necessary interstate IV-D services and maintenance of case records.
- (2) DHR shall periodically review program performance on interstate IV-D cases to evaluate the effectiveness of the procedures established by Oregon statutes and administrative rules.
- (3) DHR shall ensure that the organizational structure and staff of the IV-D agencies are adequate to provide for the administration or supervision of the following support enforcement functions for its interstate IV-D caseload: intake; establishment of paternity and the legal obligation to support; location; financial assessment; establishment of the amount of child support; collection; monitoring; enforcement and investigation.
- (4) Within 75 calendar days of receipt of an Interstate Child Support Enforcement Transmittal Form, a URESA Action Request Form or other alternative state form and documentation from its interstate central registry, the enforcing agency shall:
- (a) Provide location services in accordance with 45 CFR 303.3 if the request is for location services or the form or

documentation does not include adequate location information on the obligor;

(b) If unable to proceed with the case because of inadequate documentation, notify the IV-D agency in the initiating state of the necessary additions or corrections to the form or documentation;

(c) If the documentation received with a case is inadequate and cannot be remedied by the responding enforcing agency without the assistance of the initiating state, the enforcing agency shall process the interstate IV-D case to the extent possible pending necessary action by the initiating state.

(5)(a) Within ten working days of locating the absent parent in a different jurisdiction within the state, the enforcing agency shall forward the form and documentation to the appropriate jurisdiction and notify the initiating state and central registry of its action;

(b) Notwithstanding the provisions of subsection (a) of this section, the enforcing agency is prohibited from forwarding cases when such action would unnecessarily delay services.

(6) Within ten working days of locating the obligor in a different state, the enforcing agency shall:

(a) Return the form and documentation, including the new location, to the initiating state, or if directed by the initiating state, forward the form and documentation to the central registry in the state where the absent parent has been located; and,

(b) Notify the central registry where the case has been sent by documenting the automated case record.

(7) The enforcing agency must provide any necessary services as it would in intrastate cases by:

(a) Establishing paternity in accordance with OAR 461-195-2370;

(b) Establishing a child support obligation in accordance with OAR 461-195-2360;

(c) Processing and enforcing orders referred by another state, whether pursuant to URESA, UIFSA, or other legal processes, using appropriate remedies applied in intrastate cases in accordance with OAR 461-195-2360;

(d) Collecting and monitoring any support payments from the obligor and forwarding payments to the location specified by the IV-D agency in the initiating state no later than 15 calendar days from the date of initial receipt in the responding state. The IV-D agency shall include sufficient information to identify the case, indicate the date of collection as defined under 45 CFR 302.51(a), or that the payments were made through state income tax refund offset, and include the responding state's identifying code as defined in the Federal Information Processing Standards (FIPS) issued by the National Bureau of Standards or the Worldwide Geographic Location Codes issued by the General Services Administration.

(8) The enforcing agency shall provide timely notice to the IV-D agency in the initiating state in advance of any formal hearings which may result in establishment or modification of an order.

(9) The enforcing agency shall notify the IV-D agency in the initiating state within ten working days of receipt of new information on a case by submitting an updated form or a computer-generated replica in the same format and containing the same information.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2360

Oregon as the Responding State - Establishing, Enforcing and Modifying Support and Health Insurance Orders

- (1) The registering tribunal under UIFSA is the Department of Human Resources. This does not preclude actions by other tribunals.
- (2) Contested case hearings shall be conducted by the Employment Department pursuant to the provisions of ORS 416.427.
- (3) The enforcing agency shall use the provisions of ORS 416.400 to 416.470 in conjunction with the provisions of ORS 110.300 to 110.441 to establish, enforce and modify support orders.
- (4) When only one tribunal in this state or any other state has issued a child support order, the order shall be registered for enforcement in Oregon.
- (5) When the enforcing agency is aware that more than one order of support exists for the same family unit in this state or any other state, the enforcing agency shall, upon receipt of an interstate request:
 - (a) Use the principles of UIFSA codified at ORS 110.333 to determine:
 - (A) The tribunal of Continuing Exclusive Jurisdiction (CEJ); or,
 - (B) That no tribunal possesses CEJ.
 - (b) Calculate the total arrearage collectible in Oregon for all known prior orders for the same family unit accruing prior to the date the contested case notice is issued by the enforcing agency by:
 - (A) Requesting copies of orders and pay records from the initiating jurisdictions, pursuant to the provisions of ORS 110.393; and
 - (B) Comparing pay records provided by this and/or other initiating jurisdictions or parties and applying the provisions of ORS 110.339.
- (6) When the enforcing agency determines that another tribunal's order appears to possess CEJ, the enforcing agency shall initiate an administrative motion to register the CEJ order for enforcement and arrears reconciliation purposes pursuant to the provisions of ORS 110.339 and 110.405.
- (7) When the enforcing agency determines that no other tribunal possesses CEJ, the enforcing agency shall issue a contested case notice seeking a prospective support and health insurance order pursuant to the provisions of ORS 25.255, 25.270 to 25.280, 110.318 to 110.324, and 416.400 to 416.470.
- (8) The order of CEJ shall be the only prospective support order enforceable in Oregon from the date the final order determining CEJ is signed by the tribunal until the support obligation ends or is modified by a tribunal with CEJ.
- (9) When the enforcing agency receives a request to provide enforcement services under an order not included when determining the order of CEJ, prospective support, health insurance and/or arrears as outlines in sections (4) to (8) of this rule, the enforcing agency shall proceed as follows:
 - (a) When the request includes prospective support and/or health insurance, the enforcing agency shall determine, using the provisions of sections (3) and (4) of this rule, whether the tribunal who previously determined the order of CEJ may have lacked sufficient information to make a proper determination of CEJ;
 - (b) If CEJ changes, proceed with notice to terminate the previous determination and reconcile the arrears pursuant to the steps in section (5) of this rule;

(c) If CEJ remains the same, register the order for enforcement and reconcile the arrears pursuant to the steps in section (5) of this rule;

(10) Notwithstanding the provisions of sections (1) to (9) of this rule, the enforcing agency shall not initiate legal action on arrears only cases when one of the following conditions exist:

(a) The obligee is not currently receiving IV-D services from the initiating jurisdiction and no address for service on the obligee can be located; or,

(b) The complete payment record for the judgment has not been provided.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2365

Oregon as Responding State - Enforcement of Multiple Orders

(1) If one or more child support orders have been issued in this or another jurisdiction with regard to an obligor and a child, Oregon will use the following provisions to determine which order to recognize for purposes of enforcement:

(a) If all of the child support orders have been issued by Oregon tribunals, the most recently issued order shall be recognized as the controlling order to be enforced;

(b) If any of the child support orders have been issued by a tribunal other than Oregon, the provisions of ORS 110.333 shall be applied and the order determined to have continuing, exclusive jurisdiction under those provisions shall be recognized.

(2) If the child support order recognized using the provisions of section (1) above, is not an Oregon order, it shall be registered using the provisions of ORS 110.405 through 110.423.

(3) If the provisions of ORS 110.333 subsection (d) apply and the Oregon tribunal can assert jurisdiction over the parties, the enforcing agency shall issue an administrative Notice and Finding of Financial Responsibility pursuant to the provisions of ORS 416.400 et. seq. The resulting order shall:

(a) Accrue support beginning the date the notice is signed; and,

(b) Be recognized as the continuing, exclusive jurisdiction order for purposes of enforcement.

(4) Upon the application of sections (1) through (3) above, and the resulting recognition of the continuing, exclusive jurisdiction order, the enforcing agency shall apply Oregon statutes and administrative rules to enforce only this order and distribute the funds collected in the same manner as any other Oregon child support order.

(5) The enforcing agency shall proceed to enforce a child support order issued by another tribunal prior to the Oregon tribunal's determination of the continuing, exclusive jurisdiction order when:

(a) The continuing, exclusive jurisdiction order determined in sections (1) through (3) above, has ceased to accrue prospective support and the arrears are paid in full;

(b) The arrears requested by another tribunal accrued prior to Oregon's determination of continuing, exclusive jurisdiction;

- (c) The written request of the obligee or the request of another state has been received by the Oregon Central Registry; and,
- (d) The current address for the obligee has been provided.

Stat. Auth.: ORS 25.020, 25.080, 110.300 - 110.441, 409.020, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 110.333 & 110.336

Hist.: AFS 35-1996, f. 10-18-96, cert. ef. 11-1-96

461-195-2370

Oregon as Responding State - Establishing Paternity

- (1) When a request to establish paternity is received from another jurisdiction, the enforcing agency shall ensure that an affidavit of the mother naming the alleged father as a possible father has been received prior to initiating legal action.
- (2) The enforcing agency shall use the provisions of ORS 25.255, 25.270 to 25.287, 109.250 to 109.264, 416.400 to 416.470 to establish paternity, support, and health insurance.
- (3) The enforcing agency may advance the costs of parentage tests and shall attempt to establish a judgment for those costs when an order establishing paternity is established.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

461-195-2380

Direct Income Withholding - Oregon as Responding State - Obligor Contests Order to Withhold

- (1) If an obligor wishes to contest the direct income withholding order which was served on an Oregon employer by another state or obligee, the obligor may obtain a copy of this administrative rule and the form prescribed by the DHR, by calling or writing the Oregon IV-D Director's office.
- (2) Upon receipt of the obligor's written contest to the withholding order, the Oregon IV-D Director shall assign the review to the enforcing agency.
- (3) The enforcing agency shall conduct an administrative review of the direct income withholding order pursuant to the provisions of ORS 25.316 upon receiving the following documents from the obligor:
 - (a) Completed written request for administrative review of direct income withholding order;
 - (b) Completed application for IV-D services if none is currently in place;
 - (c) One copy of the withholding order;
 - (d) A statement of how written notice of the request for administrative review of the direct income withholding order

was given to the person or agency designated to receive payments in the income withholding order, and the enforcing agency, or, if no person or agency is designated, only the obligee.

(4) Within 45 days of the date the order to withhold earnings was issued, the enforcing agency shall determine, based on an evaluation of the facts, if the withholding shall occur. In addition to the provisions of ORS 25.316(2) and 25.317, withholding shall be discontinued if the Oregon IV-D director or the enforcing agency finds that one of the following conditions exist:

- (a) The obligor's wages are already subject to an income withholding order for the same family unit as the one for which this income withholding order was issued; or,
- (b) The income withholding order is for arrears only and the issuing entity has not reconciled arrears with other existing tribunal's orders; or,
- (c) The Oregon employer is withholding earnings for child support for another family unit and the withholding laws of the issuing states are conflicting; or,
- (d) The Oregon employer simultaneously received income withholding orders from two or more tribunals and the order of CEJ has not been determined.

(5) The Oregon IV-D Director or the enforcing agency shall notify the parties of the administrative determination required by ORS 25.314.

(6) The enforcing agency shall docket the administrative determination explained in section (5) of this rule in the county of the obligor's residence. If the obligor does not reside in Oregon, the administrative order shall be docketed in the county of the obligor's Oregon employer.

Stat. Auth.: ORS 25.010 - 25.990, 109.250 - 109.264, 110.005 - 110.441, 409.020, 409.050, 411.060 & 416.400 - 416.470

Stats. Implemented: ORS 25.020, 25.080, Ch. 110, 409.020 & 411.060

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94

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