



TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

SSP 44-2022

CHAPTER 461

DEPARTMENT OF HUMAN SERVICES

SELF-SUFFICIENCY PROGRAMS

FILED

08/25/2022 8:41 AM

ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporary Rule Change: Ending some SNAP COVID-19 Provisions

EFFECTIVE DATE: 08/25/2022 THROUGH 09/27/2022

AGENCY APPROVED DATE: 08/25/2022

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NEED FOR THE RULE(S):

OAR 461-135-0660 about SNAP; COVID-19, needs to be amended to meet federal requirements. The Food and Nutrition Service (FNS) has requested that each state's SNAP program agency using federally approved COVID-19 SNAP flexibilities (also known as waivers) create plans to return to business as usual when processing SNAP benefits. By amending this rule ODHS is ending some of these flexibilities, allowing Oregon to get closer to pre-pandemic SNAP program provisions.

JUSTIFICATION OF TEMPORARY FILING:

The Department finds that failure to act promptly by amending OAR 461-135-0660 will result in serious prejudice to the public interest, the Department, and individuals receiving or applying for the SNAP program. The Department needs to proceed by temporary rule due to the necessity to immediately remove certain COVID-19 rule provisions that Food and Nutrition Service is no longer allowing. Failure to act immediately will delay the OARs from being in compliance with ODHS decisions and Federal SNAP program regulations. This amendment realigns Oregon Administrative Rule with federally allowed COVID-19 waivers.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Emails between FNS and Oregon's SNAP program regarding this change are available upon request from SNAP policy.

For all COVID-19 waivers for Oregon, see the "Oregon: COVID-19 Waivers & Flexibilities" website here:

<https://www.fns.usda.gov/disaster/pandemic/covid-19/oregon#snap>

AMEND: 461-135-0660

SUSPEND: Temporary 461-135-0660 from SSP 33-2022

RULE SUMMARY: OAR 461-135-0660 is being amended to reflect ending of SNAP COVID-19-related waivers no longer being used by Oregon, as follows:

* The Department shall grant a face to face interview when requested by the applicant.

- * An individual applying for SNAP must meet complete an interview once every 12 months.
 - * Certification periods shall no longer be extended at the Department's discretion, but must meet pre-pandemic certification period rules.
 - * Individuals must complete a Periodic Report Form to continue receiving SNAP uninterrupted after its due date.
- The following SNAP COVID-19 related changes shall remain in place until changed in rule:
- * SNAP time limit work requirements for ABAWDs remain waived and ABAWDs are still not subject to earning countable months.
 - * Temporary exemptions for students of higher education continue.
 - * Emergency allotments are shall still be issued when approved by the Food and Nutrition Service.
- CHANGES TO RULE:
- 461-135-0660
SNAP; COVID-19
- The provisions in this rule apply to the SNAP program.¶
- (1) The Department suspends ~~the following rule sections regarding the SNAP program as provided in this rule:~~¶
- (a) OAR 461-115-0230(3), and¶
 - (b) ~~sections (2) and (6) of OAR 461-135-0520(2) and (6).~~¶
- (2) The Department amends ~~the following rules and rule sections regarding the SNAP program as provided in this rule:~~¶
- (a) OAR 461-115-0020(2),¶
 - (b) OAR 461-115-0450(1) and (2),¶
 - (c) OAR 461-135-0570(3), and¶
 - (d) ~~OAR 461-170-0102~~OAR 461-135-0570 (3) as provided in section (6) of this rule.¶
- (3) Per the Families First Coronavirus Act, Title 3, Section 2301:¶
- (a) SNAP time limit work requirements for ABAWDs (see OAR 461-135-0520) are temporarily waived.¶
 - (b) ABAWDs will not be subject to earning countable months (see OAR 461-135-0520). ¶
- (4) An individual who the Department has determined is mandatory (see OAR 461-130-0305) will be granted "good cause" (see OAR 461-130-0327) if the reason for not accepting employment or for leaving a job was due to the individual's concerns regarding their health due to the COVID-19 pandemic. ¶
- (5) ~~Notwithstanding OAR 461-115-0450, and beginning March 2020, the Department may extend a certification period (see OAR 461-001-0000) before the certification period ends.~~¶
- (a) The Department's Central Office shall determine the length of the certification period extension, criteria for selection, and select the cases whose certification period are extended.¶
 - (b) Selection for certification period extension is not a hearable issue.¶
- (6) ~~Notwithstanding OAR 461-170-0102, and beginning March 2020, the Department may waive the requirement to submit an "Interim Change Report" or a "Mid-Certification Review" in order to continue receiving benefits:~~¶
- (a) The Department's Central Office shall determine the criteria for selection and select the cases whose "Interim Change Report" or "Mid-Certification Review" are waived.¶
 - (b) Selection for waiver is not a hearable issue.¶
- (7) Emergency allotments (supplements) are permitted through USDA waiver under Families First eCoronavirus Response Act of 2020. The Department may issue an emergency allotment of SNAP benefits for any months approved for an emergency allotment by the Food and Nutrition Service, with the following limitations:¶
- (a) The emergency allotment does not change the benefit level, calculated under OAR 461-160-0400, for the benefit group (see OAR 461-110-0750).¶
 - (b) The emergency allotment shall be issued on a date determined by the Department, not subject to OAR 461-165-0100.¶
 - (c) Beginning April 2020, and except as provided in paragraphs (A) and (B) of this subsection, the amount of the emergency allotment shall be the difference between the benefit level calculated under OAR 461-160-0400 and the maximum Payment Standard for the number of individuals in the benefit group. If there is no difference, no emergency allotment shall be issued. ¶
 - (A) Beginning April 2021, if the difference calculated equals an amount less than \$95, the amount emergency allotment shall be \$95.¶
 - (B) Beginning May 2021, if the benefit level calculated under OAR 461-160-0400 of a benefit group is \$0, no emergency allotment shall be issued.¶
 - (d) When the Food and Nutrition Service makes a change that ends, reduces, or suspends the emergency allotment:¶

- (A) No decision notice (see OAR 461-001-0000) is required. The Department is not required to mail a notice of intended action.¶
- (B) The Department shall publicize the change using one or more of the following methods: ¶
- (i) Informing the public through the news media. ¶
 - (ii) Placing posters in the offices that serve affected individuals, in the locations where SNAP is issued, and at other sites frequented by individuals receiving SNAP. ¶
 - (iii) Mailing a general notice to the households of affected recipients.¶
- (e) Excepting an overpayment (see OAR 461-195-0501), there is no right to hearing to dispute emergency allotment and no right to continuing benefits.¶
- (8) ~~For applications with a filing date (see OAR 461-115-0040) established on or after March 23, 2020, the Department~~ ¶
- (a) ~~May waive the requirement under OAR 461-115-0020 section (1) to meet the interview requirements in order to complete the application process.¶~~
- (b) ~~May suspend the requirement under OAR 461-115-0230(3)(b) to grant a face-to-face interview at the applicant's request.¶~~
- (96) Retroactively effective January 16, 2021: In addition to the provisions under section (3) of OAR 461-135-0570, to be eligible for SNAP benefits, a student of higher education (see OAR 461-135-0570) may also meet the requirements of one of the following subsections:¶
- (a) The student of higher education is eligible to participate in state or federally funded work study program during the regular school year.¶
 - (b) The student of higher education has an Expected Family Contribution (EFC) of \$0 in the current academic year, as determined through the Free Application for Federal Student Aid (FAFSA).¶
- (107) The provisions-- ¶
- (a) Listed in sections (1), (3), and (4) of this rule end on the last day of the month in which the public health emergency declaration made by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.¶
 - (b) Listed in section (96) of this rule end 30 days after the day upon which the public health emergency declaration made by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted.
- Statutory/Other Authority: ORS 411.060, 411.070, 411.121, 411.816, ORS 409.050
- Statutes/Other Implemented: ORS 409.010, ORS 411.060, 411.070, 411.121, 411.816, 411.825, 411.837, 7 USC 2015, 7 USC 2029, 7 CFR 273.7, 7 CFR 273.24, Pub. L. 116-127, ORS 409.050, 7 CFR 273.10, 7 CFR 273.14