

OFFICE OF THE SECRETARY OF STATE

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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 414  
DEPARTMENT OF EARLY LEARNING AND CARE

**FILED**

08/19/2024 5:24 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amends the Employment Related Day Care Program Ruleset

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/31/2024 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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700 Summer Street NE  
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Filed By:  
Crys O'Grady  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/16/2024

TIME: 5:00 PM - 6:00 PM

OFFICER: Crys O'Grady

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-254-5252, Ext. 1619

CONFERENCE ID: 1619574427

SPECIAL INSTRUCTIONS:

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Crys O'Grady by email at Crys.OGrady@delc.oregon.gov.

NEED FOR THE RULE(S)

The Oregon Department of Early Learning and Care (DELIC) is proposing these rule changes for the Employment Related Day Care (ERDC) program. The ERDC program helps families who are working, in school, or receiving Temporary Assistance for Needy Families (TANF) pay for child care. The proposed rule changes include changes to the ERDC Waitlist, clarification on verification procedures, and changes to align terms within the ruleset.

Proposed rule changes include:

414-175-0002 is being updated to clarify language from "individual" to a more specific title where applicable (e.g., caretaker, applicant, or child). "Fringe benefits" are being added to the examples of types of in-kind income.

414-175-0010 is being updated to add eligibility and/or enrollment for the Baby Promise program as an ERDC Waitlist exemption. This change would add children eligible to participate in a Baby Promise contracted slot as a new exemption or bypass to the ERDC waitlist. ERDC Eligibility is required to be enrolled in Baby Promise. To access ERDC, families

must meet a waitlist bypass. Currently, children who are eligible for other contracted slots are able to bypass the waitlist. This rule change creates an exemption from the ERDC Waitlist as of October 26, 2024, for children who are eligible for, or enrolled in, the Baby Promise Program.

414-175-0005 is being updated to remove language pertaining to verification requirements for priority processing and point to 414-175-0024 where the priority processing verification requirements are being added.

414-175-0024 is being updated to change the title to "Verification Requirements" and to expand the language to include all verification requirements for ERDC program eligibility.

414-175-0025 is being updated to add a reference to the new content being added to 414-175-0024.

414-175-0035 is being updated to add clarification that a fringe benefit from employment that cannot be taken as cash is excluded in-kind income.

414-175-0060 is being updated to change the term "individual" to "caretaker" to align with the definition of caretaker as described 414-175-0002.

414-175-0065 is being updated to clarify language from "individual" to a more specific title where applicable (e.g., caretaker, applicant, or child). Adding a reference to new content being added to 414-175-0024.

414-175-0070 is being updated to clarify language from "individual" to a more specific title where applicable (e.g., caretaker, applicant, or child). Adding a reference to new content being added to 414-175-0024.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

More information on the Baby Promise Program can be found here:

[https://www.oregon.gov/delc/programs/pages/baby-](https://www.oregon.gov/delc/programs/pages/baby-promise.aspx#:~:text=Enrollment%20for%20Baby%20Promise%20is,or%20marital%20or%20family%20status)

[promise.aspx#:~:text=Enrollment%20for%20Baby%20Promise%20is,or%20marital%20or%20family%20status](https://www.oregon.gov/delc/programs/pages/baby-promise.aspx#:~:text=Enrollment%20for%20Baby%20Promise%20is,or%20marital%20or%20family%20status)

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The proposed change to the ERDC Waitlist exemption will have a positive impact on racial equity in Oregon. The proposed rule change will allow families with the most need for child care to access Baby Promise program slots with a qualified provider. The Baby Promise enrollment process identifies qualified families using a priority process that places historically underserved or underrepresented populations before other applicants (after priority populations such as child welfare, domestic violence, etc.).

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#### FISCAL AND ECONOMIC IMPACT:

The proposed rule amendments may have a moderate financial impact on the Department of Early Learning and Care (DELIC). Administrative costs may be incurred by DELIC to update forms and program manuals.

In August of 2024 approximately 72 children currently enrolled in Baby Promise slots across all three regions will age out of the program, creating 72 empty slots. These 72 slots are served by 22 Providers (over one-half of all BP providers) across 3 regions. These slots represent approximately \$2.2M in supplemental quality dollars unused if the slots are not filled. A significant number of Baby Promise Providers are small businesses who may experience a positive economic impact as they will be able to fill Baby Promise slots due to the ERDC Waitlist exemption. As a result of the Waitlist exemption, these providers will continue to receive subsidy dollars to support their implementation of quality infant and toddler care.

Making Baby Promise an exemption to the waitlist will provide a mechanism for families to have eligibility determined immediately, choose a provider, and enroll in a slot. Thus, maintaining enrollment in each region and fiscal support for providers who participate in this program. Maintenance of enrollment will allow Child Care Resource and Referral entities to subcontract with qualified providers and grant the sustaining funding to Baby Promise Providers that will allow providers to continue to hire quality staff and provide high quality infant toddler environments for families in

Oregon.

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**COST OF COMPLIANCE:**

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) There are no anticipated adverse impacts for units of local governments, and members of the public are not likely to be economically affected by the rule(s).

(2) The small businesses which may be impacted are child care providers who participate in the ERDC program and/or the Baby Promise program.

(a) ERDC program and/or Baby Promise program providers, who may be considered small businesses due to the nature of child care.

(b) There is not anticipated cost of compliance for reporting, recordkeeping and administrative activities required to comply with the rule(s).

(c) There is not anticipated cost of compliance for new equipment, supplies, additional staff, or additional training required to comply with the rule(s).

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**DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

DELC will convene Rules Advisory Committee (RAC) with community partners from across the state, including organizations serving populations representing racial, ethnic, geographic, socioeconomic, and linguistic diversity, to inform the development of the administrative rules. The RAC will meet on September 17, 2024 from 6-7PM.

DELC will seek additional public comments by posting drafts of the administrative rules on its website and seeking comments both in writing and through a public hearing on October 16, 2024.

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**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES**

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**RULES PROPOSED:**

414-175-0002, 414-175-0005, 414-175-0010, 414-175-0024, 414-175-0025, 414-175-0035, 414-175-0060, 414-175-0065, 414-175-0070

AMEND: 414-175-0002

RULE SUMMARY: OAR 414-175-0002 is being amended to clarify language from "individual" to a more specific title where applicable (e.g., caretaker, applicant, or child). "Fringe benefits" are being added to the examples of types of in-kind income. These language changes are to make the rule language easier to interpret and do not impact the operation of the ERDC program.

**CHANGES TO RULE:**

414-175-0002

**Definitions**

The following definitions apply to division 175, unless the context indicates otherwise:¶

(1) "Adjusted income" means the amount determined by subtracting income deductions from countable income. ¶

(2) "Assets" mean income and resources.¶

(3) "Authorized representative" means an individual aged 18 years or older or an organization permitted by these rules to act on behalf of an applicant or beneficiary in assisting the applicant or beneficiary with their application, renewal of eligibility, and other on-going communications with the Department.¶

(4) "Basic decision notice" means a decision notice mailed no later than the date of action given in the notice.¶

- (5) "Budgeting" means the process of calculating the benefit level.¶
- (6) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.¶
- (7) "Capital asset" means property that contributes toward earning self-employment income, either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.¶
- (8) "Categorically eligible" means eligible for the ERDC program based on the presence of a single factor, or set of factors, except that certain federal requirements apply. ¶
- (9) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.¶
- (10) "Certification period" means the period for which an individual caretaker is certified eligible for a program.¶
- (11) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn child. A "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or noncitizen status requirements of OAR 414-175-0021, and must be:¶
- (a) Under the age of 18; or¶
  - (b) Under the age of 19 and in secondary school or vocational training at least half time.¶
- (12) "Continuing benefit decision notice" means a decision notice that informs the individual caretaker of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.¶
- (13) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered to determine eligibility.¶
- (14) "Custodial parents" mean parents who have physical custody of a child. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.¶
- (15) "Decision notice" means a written notice of a decision by the Department regarding an individual caretaker's eligibility for benefits in a program.¶
- (16) "Department" means the Department of Early Learning and Care, or its delegate, the Oregon Department of Human Services, in accordance with ORS 327.274 and as described in rule.¶
- (17) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:¶
- (a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.¶
  - (b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.¶
  - (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.¶
  - (d) Using coercive or controlling behavior.¶
- (e) As used in this section, "family members" and "household members" mean any of the following:¶
- (A) Spouse;¶
  - (B) Former spouse;¶
  - (C) Individuals related biologically or by marriage (see section (46) of this rule), or adoption;¶
  - (D) Individuals who are cohabitating or have cohabited with each other;¶
  - (E) Individuals who have been involved in a sexually intimate or dating relationship; or¶
  - (F) Unmarried parents of a child.¶
- (18) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.¶
- (19) "ERDC" or "Employment Related Day Care" means Oregon's primary child care assistance program for eligible families under this rule set. ¶
- (20) "Equity value" means fair market value minus encumbrances.¶
- (21) "Experiencing homelessness" means an individual in the ERDC filing group who is experiencing a lack of a fixed, regular, and adequate nighttime residence. This includes, but is not limited to, individuals who are:¶
- (a) Living in an emergency or transitional shelter,¶
  - (b) Sharing housing with others due to loss of housing or economic hardship, or ¶
  - (c) Staying in motels, campgrounds, hotels, cars, parks, public places, tents, trailers, or other similar settings.¶
- (22) "Fair market value" means the amount an item is worth on the open market.¶
- (23) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.¶
- (24) "Illegal activity" means an activity that is illegal under either Oregon law or federal law, or both. Working in the marijuana or psilocybin industry is considered an "illegal activity" under this rule.¶
- (25) "Income producing property" means 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 (including a room or other space in the home or on the property of a member of the

financial group), vacation homes, and condominiums.¶

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

(a) The first month a benefit group is eligible for a program benefit in Oregon after a period during which the group is not eligible, or¶

(b) 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.¶

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

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

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

(b) The common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or¶

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

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

(30) "Lodger" means someone who:¶

(a) Is living with an ~~individual caretaker~~ receiving Department benefits;¶

(b) Is not a member of the ~~individual caretaker's~~ filing group; and¶

(c) Pays the filing group for room and board.¶

(31) "Lump-sum income" means earned or unearned income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes but is not limited to:¶

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

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

(c) Income received less frequently than annually.¶

(32) "Marriage" means the union of two individuals who are legally married.¶

(33) "Minor parent" means a parent under the age of 18.¶

(34) Nonstandard living arrangement" means each of the following locations:¶

(a) Foster care.¶

(b) Residential Care facility.¶

(c) Drug or alcohol residential treatment facility.¶

(d) Shelter for individuals who are homeless or domestic violence shelter.¶

(e) Lodging house if paying for room and board.¶

(f) Correctional facility.¶

(g) Medical institution.¶

(35) "Ongoing month" means any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.¶

(36) "ODHS" or "Oregon Department of Human Services" means the Oregon Department of Human Services.¶

(37) "Parent" means the biological or legal parent of an individual child or unborn child. ¶

(a) If the person who gave birth (parent 1) to the child lives with an individual (parent 2) and either parent 1 or parent 2 claims that parent 2 is the other biological parent of the child or unborn, and no one else claims to be the other biological parent, parent 2 is treated as a parent even if parentage has not been legally established.¶

(b) A stepparent relationship exists if:¶

(A) The individual is legally married to the child's biological or adoptive parent; and¶

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

(c) A legal adoption erases all prior legal and biological relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:¶

(A) The child lives with the biological parent; and¶

(B) The legal parent has given up care, control, and supervision of the child.¶

(38) "Payment month" means the calendar month for which benefits are issued.¶

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

(40) "Primary person" means the filing group member who is responsible for providing information necessary to

determine eligibility and calculate benefits. The caretaker is the primary person for ERDC.¶¶

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

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

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

(44) "Sibling" means the brother or sister of an individual. "Biologically-related" means they share at least one biological or adoptive parent. "Step" means they are not biologically-related, but are related by the marriage of their parents.¶¶

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

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

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

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

(49) "Timely continuing benefit decision notice" means a decision notice that informs the individual caretaker or the authorized representative of the filing group of the right to continued benefits.¶¶

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

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

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

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

AMEND: 414-175-0005

RULE SUMMARY: OAR 414-175-0005 is being amended to remove language pertaining to verification requirements for priority processing. This language is being amended to reflect the proposed language changes in 414-175-0024.

CHANGES TO RULE:

414-175-0005

Application for ERDC Benefits

- (1) A caretaker, or ~~someone~~the authorized to act on behalf of the caretaker, representative of the filing group must submit an application for ERDC benefits on a form approved by the Department. As used in this rule, the "applicant" is the caretaker, or ~~someone~~the authorized to act on behalf of the caretaker, representative of the filing group who submits an application. The applicant must submit the application to the Oregon Department of Human Services. Submitting an application to the Oregon Department of Human Services constitutes a request for benefits. ¶
- (2) The application must be accessed through the Oregon Department of Human Services. This includes, but is not limited to: ¶
- (a) Online ONE account at [\(a\) Enables the Department to determine eligibility in accordance with Division 175 of Chapter 414 of the Oregon Administrative Rules. ¶

\(b\) Is signed by the applicant. ¶

\(A\) An applicant who is unable to sign the application may sign with a mark, witnessed by Oregon Department of Human Services representative. ¶

\(B\) An applicant submitting an electronic application must submit the application with an electronic signature. ¶

\(6\) Except as provided otherwise in subsection \(6\)\(b\) and \(c\) of this rule, an interview with an adult in the filing group \(see OAR 414-175-0015\) or the authorized representative of the filing group is required to process an initial application and a renewal of benefits. ¶

\(a\) If an applicant requests a face-to-face interview, the Oregon Department of Human Services will conduct a face-to-face interview. ¶

\(b\) An interview is not required when the Department has implemented the Child Care ~~Reservation~~Waitlist and it is determined that a decision notice of ineligibility will be sent under OAR 414-175-0010. ¶

\(c\) A filing group that is experiencing homelessness or requires child care for a current foster child is not required to complete an interview during "priority processing," as described in section \(8\) of this rule. ¶

\(7\) If the Department requests additional information that is necessary to determine eligibility, the applicant is entitled to a written notice that includes a statement of the specific information needed to determine eligibility and the date by which the applicant must provide the required information. ¶

\(8\) A filing group that is experiencing homelessness or requires child care for a current foster child may receive "priority processing." For purposes of this rule, "priority processing" means the benefits may be open for up to three months while pending for ~~verification of income, work schedule, verification of immunization records, or a copy of the medical or non-medical exemption form~~required verification in accordance with OAR 414-175-0024 during the application period. ¶

\(9\) The Department, through the Oregon Department of Human Services, will send a decision notice not later than 45th day after the Date of Request. The Department may extend the period if one or more of the following subsections applies: ¶

\(a\) Information needed to determine eligibility is expected to be received after the 45-day deadline, and the applicant has no control over the information. ¶](https://www.one.oregon.gov/dhs/ASSISTANCE/CHILD-CARE/Pages/Parents.aspx>UserRegistration/LoginCA;</a> ¶</p><p>(b) With a paper application; or ¶</p><p>(c) By contacting the Oregon Department of Human Services to request assistance with applying for benefits. The request may be oral or in writing. ¶</p><p>(3) The Date of Request is the day the request for benefits is received by the Oregon Department of Human Services. ¶</p><p>(4) An applicant has forty-five (45) days to complete the application from the Date of Request. The Department may allow additional time if: ¶</p><p>(a) Information needed to determine eligibility is expected to be received after the 45-day deadline, and the applicant has no control over the information; ¶</p><p>(b) Circumstances beyond the control of the applicant prevent the Department from making the decision within the 45-day period; or ¶</p><p>(c) As otherwise provided in these rules. ¶</p><p>(5) As used in this rule, a )

- (b) Other circumstances beyond the control of the applicant prevent the Department from making the decision within the 45-day period.¶
- (10) If an applicant files an application containing the caretaker's name and address, the Department must send the caretaker a decision notice.¶
- (11) An applicant may withdraw an application at any time.
- Statutory/Other Authority: ORS 329A.500
- Statutes/Other Implemented: ORS 329A.500



AMEND: 414-175-0010

RULE SUMMARY: OAR 414-175-0010 is being amended to add eligibility for, or placement in, a Baby Promise program contracted slot as a Waitlist exemption for the ERDC program.

CHANGES TO RULE:

414-175-0010

Waitlist for ERDC

- (1) Eligibility is subject to the availability of funds. The Department may implement a Child Care Waitlist whenever the Department determines that sufficient funding is not available to sustain benefits for all of the applicants requesting ERDC benefits.¶
- (2) The following applicants are subject to placement on the Child Care Waitlist when the/Child Care Waitlist is in effect. New applicants will be placed on the Child Care Waitlist for ERDC unless any member of the ERDC/filing group meets at least one exemption listed in the following paragraphs:¶
- (a) Received a partial or full month of cash benefits from the Refugee (REF), State and Family Pre-SSI (SFPSS), or Temporary Assistance to Needy Families (TANF) programs in the state of Oregon in at least one of the preceding three months.¶
- (b) Determined eligible for, and being placed in, a current opening in a Head Start program contracted slot ~~or~~, an Early Head Start Child Care Partnership contracted slot, or a Baby Promise program contracted slot.¶
- (c) The caretaker is currently working with Child Welfare as part of a Child Protective Services (CPS) assessment or open case and Child Welfare has determined the use of child care will:¶
- (A) Prevent removal of the child from their home;¶
- (B) Allow a child to be returned home; or¶
- (C) Allow for placement of the child with a relative or with an adult whom the child or the family of the child has an established relationship.¶
- (d) Determined eligible for Temporary Assistance to Domestic Violence Survivors (TA-DVS) program benefits from the state of Oregon in the current month or at least one of the preceding three months.¶
- (e) Was part of an ERDC filing group with a break in ERDC benefits of no more than two consecutive calendar months.¶
- (3) When the Child Care Waitlist is in effect, the Department must place all applicants who are subject to the Child Care Waitlist under section (2) of this rule on the Child Care Waitlist for future selection. The Department sends these applicants a decision notice of ineligibility for the ERDC program.¶
- (4) Each month, on the basis of an estimate of available funds, an appropriate number of individuals from the Child Care Waitlist are selected on a first-in and first-out basis and invited to apply for ERDC.¶
- (5) After an individual is selected from the Child Care Waitlist, the individual must establish a date of request no later than 45 days after the date on the selection letter. The individual may request child care benefits from the Department:¶
- (a) Without completing a new application, when the previous application is within 45 days of its date of request; or¶
- (b) By submitting a new application for child care benefits to the Department in accordance with OAR 414-175-0005.¶
- (6) The processing time frame for the ERDC application is the same as that specified in OAR 414-175-0005, except that:¶
- (a) If the Department does not receive a request for benefits within the deadline to apply, the individual is dropped from the Child Care Waitlist. ¶
- (b) An individual who requests benefits after the 45-day deadline to apply (see section (5) of this rule) will be returned to the Child Care Waitlist.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

RULE SUMMARY: OAR 414-175-0024 is being amended to expand the language to include required verification for program eligibility. This language was inadvertently left out in the transition of the ERDC program from the Oregon Department of Human Services (ODHS) to the Oregon Department of Early Learning and Care (DELIC). This amendment also reflects a change in the rule title. These language changes do not impact the operations of the program.

CHANGES TO RULE:

414-175-0024

Verification of Medical Documentation Requirements

(1) Methods of verifying information include the following:

(a) Electronic: Information available and provided to the Department by worker-initiated verification through system access. Electronic verification is the preferred method when information is available.

(b) Self-attestation: Information provided orally or in writing by or on behalf of an individual. Self-attestation is only accepted where indicated below and no other method is required.

(c) Documentation: Documentary evidence provided by or on behalf of an individual or obtained by the Department from a third party. Documentation is required whenever electronic verification is not available and self-attestation is not allowed. Medical documentation must be written and must contain all the following:

(a) A diagnosis in medical terminology, including an explanation of whether the impairment limits the individual's ability to perform normal functions and, if so, how.

(b) A prognosis, including an expected recovery time frame.

(c) Clinical findings from physical examination, psychiatric evaluation, X rays, or a laboratory procedure, including specific data supporting diagnosis of a condition that causes disability, either on a medical or psychiatric basis.

(2) Accept as provided otherwise in section (3) of this rule forms of medical documentation include:

(a) To determine eligibility, the Department will accept evaluations from the following medical sources: medical evaluations only from licensed physicians, including psychiatrists, osteopaths, and ophthalmologists; mental evaluations only from psychiatrists and licensed or certified psychologists; and measurement of visual acuity and visual fields only from ophthalmologists and licensed optometrists.

(b) The Department will accept supplemental medical and vocational information to augment evaluations from acceptable medical sources, from a licensed social worker, licensed physical or occupational therapist, or licensed nurse practitioner.

(3) The Department will also accept medical evaluations from licensed nurse practitioners and physician assistants; and mental evaluations from psychiatric mental health nurse practitioners.

(4) The client must provide or cooperate in obtaining sufficient medical documentation following information must be verified at initial application, recertification, and whenever eligibility for benefits becomes questionable, except as outlined in section 4.

(a) Countable income

(b) Special Needs Rate

(c) Identity of the caretaker(s)

(d) Resources: self-attestation is allowable

(e) Child care need

(f) Second caretaker unable to provide adequate care

(g) Need for care of child(ren) age 13 or older at the time of application or recertification: self-attestation is allowable.

(h) Eligibility for priority processing: self-attestation is allowable.

(i) Caretaker's schedule: self-attestation is allowable.

(j) Immunizations:

(A) Reporting that immunizations are up to date: self-attestation is allowable.

(B) Reporting that an immunization series has started or that requirements are met due to having the medical or non-medical exemption form: documentation is required.

(k) Payment of an unpaid copay

(l) Head Start enrollment

(m) Authorized Medical Leave

(A) Parental leave:

(i) Up to 3 months: self-attestation is allowable.

(ii) More than 3 months: medical documentation is required.

(B) Medical leave for any other reason: medical documentation is required.

(4) The following information must be verified during a certification period: ¶

(a) A change in income: ¶

(A) A decrease in income to reduce the copay. ¶

(B) An increase in income due to a new filing group member entering the home. ¶

(C) Income over the income limits in OAR 414-175-0050: self-attestation is allowable. ¶

(b) An increase in child care hours: ¶

(A) For families categorically eligible for ERDC: self-attestation is allowable. ¶

(B) All other requests for increased hours: Electronic or documentation is required.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

AMEND: 414-175-0025

RULE SUMMARY: OAR 414-175-0025 is being amended to add a reference to new content being added to 414-175-0024.

CHANGES TO RULE:

414-175-0025

Categorical Eligibility for ERDC

(1) Subject to section (3) of this rule, a child or caretaker and their associated need group are categorically eligible for ERDC benefits if:¶

(a) ~~a~~A child care need is established through an application in accordance with OAR 414-175-0005, and¶

(b) The following factor is true for a child or a caretaker in a need group: The individual is determined eligible for Temporary Assistance for Needy Families (TANF) benefits.¶

(2) Subject to section (3) of this rule, any family receiving TANF JOBSS child care support services for care provided in June of 2023, pursuant to OAR 461-160-0193, shall be determined categorically eligible for ERDC benefits on July 1, 2023; a family does not need to comply with OAR 414-175-0005. ¶

(3) Categorical eligibility for ERDC requires ongoing compliance with the following federal Child Care Development Fund requirements:¶

(a) Until May 1, 2024, children in the Need Group must meet the immigration or legal status requirements in OAR 414-175-0021 and the age requirements in OAR 414-175-0022; ¶

(b) The filing group must certify that they do not exceed the resource and must meet the income limits in OAR 414-175-0050; and¶

(c) ~~A Need group not willing to show verification of immunizations, proof that the immunization series has started, or a copy of the medical or non-medical exemption form that immunization requirements in accordance with OAR 414-175-0024 have been met~~ for the child is not eligible for ERDC benefits.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

AMEND: 414-175-0035

RULE SUMMARY: OAR 414-175-0035 is being amended to add clarification that a fringe benefit from employment that cannot be taken as cash is excluded income.

CHANGES TO RULE:

414-175-0035

#### Specific Financial Requirements

The following assets are countable or excluded for the purposes of evaluating whether the Financial Group meets the income and resource limits in OAR 414-175-0050:

(1) Achieving a Better Life Experience (ABLE) Act

(a) In all programs, funds held in ABLE Act accounts are excluded as resources.

(b) Monies withdrawn from ABLE Act accounts are excluded as income if they are used for Qualified Disability Expenses. For purposes of this section, "Qualified Disability Expenses" include, but are not limited to, the following:

(A) Education;

(B) Housing;

(C) Transportation;

(D) Employment training and support;

(E) Assistive technology and personal support services;

(F) Health;

(G) Prevention and wellness;

(H) Financial management and administrative services;

(I) Legal fees;

(J) Expenses for oversight and monitoring; and

(K) Funeral and burial expenses.

(c) Funds withdrawn from ABLE Act accounts for purposes other than Qualified Disability Expenses, above, are counted as unearned income.

(2) Adoption Assistance: Adoption assistance is excluded.

(3) Agent Orange Settlement Act

(a) Benefits from the Agent Orange Settlement Fund made by Aetna Life and Casualty for settling Agent Orange disability claims are excluded.

(b) Payments made under the Agent Orange Act of 1991, and issued by the U.S. Treasury through the Department of Veterans Affairs, are counted as unearned income.

(4) Alaska Permanent Fund Dividend

(a) 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.

(b) Alaska Permanent Fund Dividend payments are considered lump-sum income and therefore excluded.

(5) Animals

(a) Animals that are kept as pets or raised as food for the filing group are excluded.

(b) The treatment of an animal considered income-producing property is covered by section (35) of this rule.

(6) Annuities

(a) For the purposes of section (6):

(A) "Actuarially sound" means commercial annuities (see subsection (a)(iv) of this section) that pay principal and interest out in equal monthly installments over the actuarial life expectancy of the annuitant, with no deferral and no balloon payments. For purposes of this definition, the actuarial life expectancy is established by the Periodic Life Table of the Office of the Chief Actuary of the Social Security Administration and, for transactions (including the purchase of an annuity) occurring on or after July 1, 2008, the payout period must be within three months of the actuarial life expectancy, measured at the time of purchase.

(B) An annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether maintained in the original account or used to purchase an annuity, if the Internal Revenue Service recognizes the account as dedicated to retirement or pension purposes.

(C) "Child" means a biological or adoptive child who is:

(i) Under age 21; or

(ii) Any age and meets the Social Security Administration criteria for blindness or disability.

(D) "Commercial annuities" means contracts or agreements (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.

(b) An annuity is counted as a resource if the annuity does not make regular payments for a lifetime or specified

number of years.¶

(c) Commercial annuities and payments from such annuities are counted as are counted as unearned income to the payee.¶

(d) If an annuity is a countable resource under this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular payments already received, minus any early withdrawals, and minus any surrender fees.¶

#### (7) Bank Account¶

(a) As used in this rule, a bank account includes a money market account and an account in a financial institution, except that accounts in financial institutions for stocks, bonds, and certificates of deposit (CDs) are covered in section (68) of this rule.¶

(b) Money in a bank account available to one or more members of the financial group is counted as a resource in accordance with OAR 414-175-0030, unless it is excluded under this rule.¶

(c) In each of the following situations, money in a bank account is excluded as a resource:¶

(A) A burial fund if excluded under section (9) of this rule.¶

(B) Funds from excluded income if excluded as a resource under OAR 414-175-0030 (4).¶

(C) An Individual Education Account if excluded under section (24) of this rule.¶

(D) Money for a plan for self-support if excluded under section (55) of this section. ¶

(E) Proceeds from the sale of a home if excluded as a resource under section (62) of this rule.¶

(d) Interest and dividends earned on funds in a bank account are counted as unearned income, unless the account is excluded as a resource under section (6)(c) of this rule or under another rule in this chapter of rules.¶

(8) Black Lung Benefits: Black Lung Benefits paid to miners or their survivors under the provisions of the Federal Mine Safety and Health Act are counted as unearned income.¶

#### (9) Burial Arrangements and Burial Fund¶

(a) The following definitions apply to section (9):¶

(A) "Burial arrangement" means an agreement with an entity -- such as a funeral agreement (which means an arrangement made with a licensed funeral provider), burial insurance, or a burial trust designating a funeral director as the beneficiary that establishes provisions for payment of an individual's burial costs. A "burial arrangement" does not include a burial space, which is covered in section (10), or a burial fund.¶

(B) "Burial fund" means an identifiable fund set aside for an individual's burial costs. A "burial fund" does not include a burial space, which is covered in section (10), or a burial arrangement.¶

(C) Burial insurance is considered a form of life insurance and treated in accordance with section (44) of this rule.¶

(b) The equity value of one prepaid burial arrangement for each member of the filing group is excluded.¶

(c) A burial fund is counted as a resource.¶

(d) There is no overpayment for the time period during which the burial arrangement or burial fund existed if the individual:¶

(A) Cancels an excluded burial arrangement; or¶

(B) Uses an excluded burial fund for any purpose other than burial costs.¶

(e) If an asset originally used as a burial arrangement or burial fund is converted to other uses, the asset is treated under the other applicable rules.¶

#### (10) Burial Space and Merchandise¶

(a) For the purpose of this section, burial spaces include conventional gravesites, crypts, mausoleums, urns, niches, burial vaults, and other repositories that are traditionally used for the remains of deceased individuals. Burial spaces also include headstones and the opening and closing of the gravesite, and the reasonable and necessary improvements or additions to such spaces. Burial merchandise includes, but is not limited to, urns, caskets, liners, headstones, markers, plaques and foundations.¶

(b) The Department excludes as a resource the equity value of all burial space or merchandise for each member of the financial group, except that for burial space and merchandise that serves the same purpose, only one item per individual is excluded.¶

#### (11) Cash¶

(a) In the month of receipt, cash is counted as income, unless the cash qualifies as excluded income in this rule.¶

(b) After the month of receipt, cash (including cash on hand, cash in a safety deposit box, and cash held by others) is counted as a resource, unless the cash qualifies as an excluded resource in this rule.¶

(c) Foreign currency that can be converted to U.S. currency is treated in the same manner as cash under this rule. The value of foreign currency is its value in U.S. currency, determined by the current exchange rate.¶

(d) The treatment of a check is based on the source of the funds.¶

#### (12) Child Support and Cash Medical Support¶

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

(b) Child support is considered countable unearned income if it is received by the financial group or is countable under section (40) of this rule. Otherwise, it is excluded.¶

(13) Contributions¶

(a) Contributions are monies, not considered gifts or winnings under section (31) of this rule, given voluntarily to a member of a financial group by someone who is not in the group.¶

(b) Contributions are counted as unearned income. ¶

(14) Coronavirus Aid, Relief, and Economic Security (CARES) Act¶

(a) Recovery Rebate payments authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) are:¶

(A) Excluded assets in the month of receipt;¶

(B) Excluded assets for 12 full months starting with the month following the month of receipt, and¶

(C) After the 12-month period, the remainder is countable as a resource.¶

(b) Federal Pandemic Unemployment Assistance payments authorized by the CARES Act are not Disaster Unemployment Assistance and are treated as follows:¶

(A) Retroactive payments are counted as periodic or lump-sum income; and¶

(B) All other payments are counted as unearned income.¶

(c) Federal Pandemic Unemployment Compensation payments authorized by the CARES Act are treated as follows:¶

(A) Federal Pandemic Unemployment Compensation payments are not Disaster Unemployment Assistance; and¶

(B) The payments are excluded assets.¶

(15) Corporations and Business Entities¶

(a) The value of stocks or other ownership interest in a corporation is a resource.¶

(b) Resources of the corporation essential to the employment of an individual are excluded. For instance, if the corporation owns equipment used by the individual to produce income for the corporation, the equipment is an excluded resource. If an individual must own stock in the corporation as a condition of working for the corporation, the stock is an excluded resource.¶

(c) Except as provided in OAR 414-175-0030(3)(a), gross income of a corporation is income of an individual if determined to be self-employment as defined in section (81) of this rule and is considered available when the business receives the income. If not self-employment, the income of a corporation is considered income of the business until distributed to the individual.¶

(d) For an expenditure by a business entity or corporation that benefits a principal such as a car or housing payment:¶

(A) The payment is considered available when the expenditure is made.¶

(B) For purposes of this section, a "principal" means an individual with significant authority in a business entity or corporation, including a sole proprietor, a self-employed person, a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.¶

(16) Disability Benefits¶

(a) This rule covers public and private disability benefits, except the following:¶

(A) Agent Orange disability benefits (covered in section (3) of this rule).¶

(B) Paid Leave Oregon benefits (covered in section (82) of this rule).¶

(C) Radiation Exposure Compensation Act payments (covered in section (57) of this rule).¶

(D) Social security based on disability or SSI (covered in sections (64) and (65) of this rule).¶

(E) Veterans benefits (covered in section (75) of this rule).¶

(F) Workers compensation (covered in section (79) of this rule).¶

(b) For each disability payment covered by this section:¶

(A) If received monthly or more frequently, income from employer-sponsored disability insurance is counted as earned income if paid to an individual who is still employed while recuperating from an illness or injury.¶

(B) All payments other than those in subsection (b)(A) of this section are counted as periodic or lump-sum income.¶

(17) Disaster Relief¶

(a) As used in section (17) of this rule:¶

(A) A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood or explosion, which the President determines causes damage of sufficient severity and magnitude.¶

(B) An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.¶

(C) Disaster Unemployment Assistance is emergency assistance authorized under P.L. 100-107 and received by individuals who are unemployed as a result of a major disaster. Individuals receiving Disaster Unemployment Assistance are not eligible for other unemployment compensation and cannot receive both at the same time.

Payments are limited to 26 weeks.¶¶

(b) Except as otherwise stated in sections (d) to (h) of this rule and in OAR 414-175-0030, payments described in section (c) of this rule are not counted as income or resources when determining eligibility for or benefit levels.¶¶

(c) This rule applies to each of the following payments if precipitated by an emergency or major disaster:¶¶

(A) Payments received under the Disaster Relief Act of 1974 (P.L. 93-288, section 312(d)) as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 (P.L. 100-707, Section 105(i)).¶¶

(B) Disaster assistance comparable to subsection (a) of this section provided by States, local governments, and disaster assistance organizations.¶¶

(C) Payments from the Federal Emergency Management Agency (FEMA).¶¶

(D) Individual and Family Grant Assistance program (IFG).¶¶

(E) Grants or loans by the Small Business Administration (SBA).¶¶

(F) Voluntary disaster assistance organizations, such as the Red Cross.¶¶

(G) Private insurance payments for losses due to a major disaster such as flood, wind, land movement.¶¶

(d) Government payments designated for the restoration of a home damaged in a disaster are excluded as income or resources in the month of receipt and as a resource in subsequent months, if the household is subject to a legal sanction if the funds are not used as intended.¶¶

(e) Each payment made to farmers under the Disaster Assistance Act of 1988 (P.L. 100-387) for crop losses or failure in a disaster is excluded.¶¶

(f) Income received from public and private organizations by individuals working in disaster relief efforts and funded under a National Emergency Grant by WIA title 1 (P.L. 105-220) is excluded. An individual is eligible under this funding source if he or she is a dislocated worker, a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster. Eligibility under this funding source is limited to a period of up to six months per disaster.¶¶

(g) Disaster Unemployment Assistance is excluded as both income and a resource.¶¶

(h) Payments for flood mitigation received by a homeowner under the National Flood Insurance Act of 1968 as amended by P.L. 109-64, are not counted as income or resources.¶¶

(18) Dividends, Interest, and Royalties¶¶

(a) Dividends are counted as unearned income.¶¶

(b) Interest income is counted as unearned income. ¶¶

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

(19) Domestic Volunteer Services Act (VISTA, RSVP)¶¶

(a) Payments under Title I, VISTA, University Year of Action, and Urban Crime Prevention, are excluded, except for payments are counted as earned income if the total value of all compensation is equal to or greater than compensation at the state minimum wage.¶¶

(b) Payments are excluded for programs under Title II (National Older Americans Volunteer Programs), which include:¶¶

(A) Retired Senior Volunteer Program (RSVP) Title II, Section 201.¶¶

(B) Foster Grandparent Program Title II, Section 211.¶¶

(C) Older American Community programs.¶¶

(D) Senior Companion Program.¶¶

(20) Small Business Act (SCORE, ACE): Payments are excluded for programs under 15 USC 637(a)(1) (the Small Business Act), which include:¶¶

(a) Service Corps of Retired Executives (SCORE); and¶¶

(b) Active Corps of Executives (ACE).¶¶

(21) Earned Income, including from Other Benefits Programs or Census Bureau Work¶¶

(a) Earned income of a child is excluded.¶¶

(b) The income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.¶¶

(c) Fringe benefits received from an employer that the employee does not have the option to take as cash are excluded.¶¶

(22) Earned Income Tax Credit (EITC) and Child Tax Credit¶¶

(a) There are federal and state earned income tax credit (EITC) programs for low-income families.¶¶

(A) An EITC may be claimed in one of two ways:¶¶

(i) At the time an income tax return is filed with the Internal Revenue Service (IRS).¶¶

(ii) As an advance in the employee's paycheck.¶¶

(B) The EITC is excluded from assets in the month of receipt and then for a maximum of 12 calendar months starting with the month following the month of receipt of the refund or payment. All funds remaining after the 12-month period are counted as a resource.¶¶



- (b) The Child Tax Credit is determined and administered by the IRS.¶
- (A) A Child Tax Credit may be claimed in one of two ways:¶
- (i) At the time an income tax return is filed with the IRS.¶
- (ii) As monthly advance Child Tax Credit payments from the IRS.¶
- (B) The Child Tax Credit is excluded from assets in the month of receipt and then for a maximum of 12 calendar months starting with the month following the month of receipt of the refund or payment. All funds remaining after the 12-month period are counted as a resource.¶
- (23) Economic Recovery Payment: The \$250 economic recovery payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded income in the month of receipt and an excluded resource in the month of receipt and for the following nine months.¶
- (24) Educational Income¶
- (a) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:¶
- (A) A student at a recognized institution of post-secondary education. Post-secondary education is education offered primarily to individuals 18 years of age or older. Admission may - but does not necessarily - require a high school diploma or equivalent.¶
- (B) A student at a school for individuals with disabilities.¶
- (C) A student in a vocational education program.¶
- (D) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.¶
- (b) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:¶
- (A) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.¶
- (B) The student receives child care benefits - ERDC or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.¶
- (C) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.¶
- (c) The following items are excluded:¶
- (A) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).¶
- (B) All income from educational loans.¶
- (d) The cost of the following items from remaining educational funds (including non Title IV work study, externship, graduate assistantship, graduate fellowship wages, and internship is excluded: 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.¶
- (e) After allowing exclusions, the remaining income is treated as follows:¶
- (A) Income received through work study (including work study provided through a VA program or other educational program), fellowships and teaching-assistant positions not excluded by subsection (c) or (d) of this section (24) of the rule is earned income.¶
- (B) Educational income not covered by subsection (e)(A) of this section (24) is prorated over the period it is intended to cover. If the individual has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the individual has not received the income at the time the determination is made, the prorated income is counted starting in the month the individual expects to receive it.¶
- (f) Educational awards paid under the National and Community Service Trust Act of 1993 (including AmeriCorps) are treated in accordance with section (50) of this rule.¶
- (25) Energy Assistance Payments: All energy assistance payments or allowances made under any federal, state, or local law are excluded as income and as a resource.¶
- (26) Family Abuse Prevention Act (FAPA) Payments¶
- (a) Family Abuse Prevention Act (FAPA) payments are court-ordered payments to survivors of domestic violence made under authority of ORS 107.718(1)(h). A payment is considered available when actually received by the survivor of abuse.¶
- (b) The first \$2,500 is excluded; the excess above \$2,500 is counted as a resource.¶
- (27) Filipino Veterans Equity Compensation Fund: The Department excludes from income a payment received by a veteran or the spouse of a veteran who served in the military of the Government of the Commonwealth of the Philippines during World War II and made under the Filipino Veterans Equity Compensation Fund authorized by

the American Recovery and Reinvestment Act of 2009.¶

(28) Floating Homes and Houseboats¶

(a) Floating homes and houseboats are treated in the same manner as real property under section (58) of this rule.¶

(b) Floating homes and houseboats are subject to section (32) and (35) of this rule, if applicable.¶

(29) Food Programs Other Than the SNAP program: The following benefits are excluded:¶

(a) Benefits from the Special Supplemental Food Program for Women, Infants and Children (WIC), including demonstration projects (coupons exchanged for food at farmers markets) under the Hunger Prevention Act of 1988 (Pub. L. 100-435, section 501.¶

(b) The value of supplemental food assistance provided to children under the Child Nutrition Act of 1966 (Pub. L. 89-642) and the National School Lunch Act (Pub. L. 79-396, section 12(e), and Pub. L. 94-105).¶

(c) Nutrition Assistance program benefits received in Puerto Rico, American Samoa or the Commonwealth of the Northern Mariana Islands.¶

(d) The value of supplemental food assistance provided for seniors in the Senior Farm Direct Nutrition Program (see OAR 333-052-0030) funded by grants from the United States Department of Agriculture.¶

(e) Benefits from the tribal Food Distribution Program.¶

(30) Foster Care Payments and Guardianship Assistance Benefits: Payments for foster care and benefits from the Guardianship Assistance program (OAR 413-070-000) are excluded.¶

(31) Gifts and Winnings¶

(a) For the purposes of section (31):¶

(A) "Gifts" are items given to or received by an individual on or for a special occasion, such as a holiday, birthday, graduation, or wedding. "Gifts" are not given or received on a regular basis.¶

(B) "Winnings" are prizes given to an individual in a contest, game of chance, or similar event. "Winnings" in the form of money may be distributed in different payment frequencies, such as monthly, periodically (such as quarterly), or in a single payment.¶

(b) Gifts and winnings are excluded.¶

(32) Home¶

(a) Home defined: A home is the place where the filing group lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:¶

(A) Land on which the home is built and contiguous property. Property must meet all the following criteria to be considered contiguous property:¶

(i) It must not be separated from the land on which the home is built by land owned by people outside the financial group.¶

(ii) It must not be separated by a public right-of-way, such as a road.¶

(iii) It must be property that cannot be sold separately from the home.¶

(B) Other dwellings on the land surrounding the home that cannot be sold separately from the home.¶

(b) Exclusion of home and other property:¶

(A) For an individual who has an initial month of long-term care or home and community-based care on or after January 1, 2006:¶

(i) For purposes of this subsection, "child" means a biological or adoptive child who is:¶

(I) Under age 21; or¶

(II) Any age and meets the Social Security Administration criteria for blindness or disability.¶

(ii) The equity value of a home is excluded if the requirements of at least one of the following subparagraphs are met:¶

(I) The child of the individual or relative dependent on the individual for support occupies the home.¶

(II) The Spouse of the individual occupies the home.¶

(III) The equity in the home is \$688,000 or less, and either the individual occupies the home or the home is listed for sale per section (58) of this rule.¶

(IV) Notwithstanding OAR 414-175-0030(8), the equity in the home is more than \$688,000 and the individual is unable legally to convert the equity value in the home to cash.¶

(B) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.¶

(c) Exclusion during temporary absence: The value of a home is excluded in each of the following situations:¶

(A) For the purposes of this section, "evidence" includes a written statement from a competent individual.¶

(B) During the temporary absence of all members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.¶

(33) Housing and Urban Development¶

(a) Payments from HUD made to a third party on behalf of the individual are excluded.¶

(b) HUD payments made directly to a member of the financial group, except Youth Build Program payments and

Family Investment Centers payments, are excluded. ¶

(c) Escrow accounts established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD are excluded. ¶

(d) Payments related to family investment centers issued under the Cranston-Gonzalez National Affordable Housing Act, Pub. L. No. 101-625, sec. 515, 104 Stat. 4196 (1990), are treated as follows: ¶

(A) Wages are earned income, and stipends are unearned income. ¶

(B) Service payments for items such as child care, basic education, literacy, or computer skills training are excluded. ¶

(34) Income-Producing Sales Contract ¶

(a) The equity value of an income-producing sales contract is excluded. ¶

(b) Income received from a sales contract is treated as provided in section (62) of this rule. ¶

(35) Income Producing Property ¶

(a) Income from income producing property is counted as follows: ¶

(A) If a member of the financial group actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (section (81) of this rule). ¶

(B) If a member of the financial group does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with section (81) of this rule. ¶

(b) The equity value of income-producing property is excluded. ¶

(36) Youth Transitions Program Subsidies ¶

(a) Youth Transitions program subsidies are payments and services provided to children 16 to 20 years of age by the Department. The Youth Transitions program (including the Chafee Housing program) is described at OAR 413-030-0400 to 413-030-0460. The subsidies help the children live independently when their foster care payments are discontinued upon reaching 16 years of age. ¶

(b) The subsidies are excluded from income. ¶

(37) American Indian and Alaska Native Benefits ¶

(a) In this rule, the names of sovereign tribal nations are often listed as shown in the public law. The Department has also attempted (in parenthesis) to include the names of sovereign tribal nations as they call themselves, if different than the name in the public law. When there is a conflict, the rule provision applies to the Tribe subject to the public law. ¶

(b) The following benefits or payments are excluded as income and resources. ¶

(A) Public Law 84-736: Payments from the distribution of funds held in trust to the Seminole Indians of Florida (The Seminole Tribe of Florida). ¶

(B) Public Law 84-926: Payments from the distribution of funds held in trust to the Pueblos of Zia and Jemez Tribes of Florida. ¶

(C) Public Law 92-480: Payments from the distribution of funds held in trust to the Stockbridge Munsee Indian Community (Stockbridge Munsee Community) of Wisconsin. ¶

(D) Public Law 92-488: Payments from the distribution of funds held in trust to the Burns Indian Colony (Burns Paiute Tribe) in Oregon. ¶

(E) Public Law 93-531: Relocation assistance payments to members of the Navajo (Navajo Nation or Dine') or Hopi Tribe. ¶

(F) Public Law 94-114, section 6: Distribution of receipts from lands held in trust by the United States for the following tribes: ¶

(i) Assiniboine and Sioux Tribes of Montana. ¶

(ii) Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin. ¶

(iii) Blackfeet Tribe of Montana. ¶

(iv) Cherokee Nation of Oklahoma. ¶

(v) Cheyenne River Sioux Tribe of South Dakota. ¶

(vi) Chippewa Tribe of Minnesota (Minnesota Chippewa Tribe). ¶

(vii) Crow Creek Sioux Tribe of South Dakota. ¶

(viii) Devil's Lake Sioux Tribe of North Dakota. ¶

(ix) Fort Belknap Indian Community of Montana. ¶

(x) Keweenaw Bay Indian Community of Michigan. ¶

(xi) Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin. ¶

(xii) Lower Brule Sioux Tribe of North Dakota. ¶

(xiii) Navajo Tribe (Navajo Nation or Dine') of New Mexico. ¶

(xiv) Oglala Sioux Tribe of South Dakota. ¶

(xv) Rosebud Sioux Tribe (Sicangu Lakota Oyate, or Burnt Thigh Nation comprised of the Ogalala, Sicangu or Brule, Hunkpapa, Miniconjou, Sicasapa or Blackfoot, Itazipacola, and Oohenupa) of South Dakota. ¶

(xvi) Shoshone - Bannock Tribes of Idaho. ¶

(xvii) Standing Rock Sioux Tribe of North Dakota. ¶

(G) Public Law 94-540: Judgment funds distributed to members of the Grand River Bands of Ottawa Indians. ¶

(H) Public Law 95-433: Judgment funds distributed to members of the Confederated Tribes and Bands of the Yakama (formerly Yakima) Indian Nation (comprised of the Yakama Palouis, Pisuouse, Wenatchsahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Ocehchotes, Ka-milt-pha, and Se-ap-Cat), or the Apache Tribe of the Mescalero Reservation (Mescalero Apache Tribe). ¶

(I) Public Law 95-498: Receipts derived from trust lands awarded to the Pueblo of Santa Ana and distributed to members of that Tribe. ¶

(J) Public Law 95-499: Receipts derived from trust lands awarded to the Pueblo of Zia and distributed to members of that Tribe. ¶

(K) Public Law 95-608: Indian child welfare payments. ¶

(L) Public Law 96-305: Relocation assistance payments to members of the Navajo (Navajo Nation or Dine') or Hopi Tribe. ¶

(M) Public Law 96-318: Judgment funds distributed to members of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma (Delaware Tribe of Western Oklahoma). ¶

(N) Public Law 96-420: Funds and distributions to members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians under the Maine Indian Claims Settlement Act. ¶

(O) Public Law 97-372: Distributions of judgment funds to members of the Shawnee Tribe of Indians (Absentee Shawnee Tribe of Oklahoma (Absentee Shawnee Tribe of Indians of Oklahoma), the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants). ¶

(P) Public Law 97-376: Judgment funds distributed per capita to members of the Miami Tribe of Oklahoma and the Miami Indians of Indiana (Miami Nation of Indians of Indiana). ¶

(Q) Public Law 97-403: Payments on judgments funds to the Turtle Mountain Band of Chippewa, Arizona. ¶

(R) Public Law 97-408: Payments on judgment funds to the Blackfeet Tribe, Gros Ventre (Aaniih) Tribe, and Assiniboine (Nakoda) Tribe (Montana) and the Papago (Tohono O'odham Nation) (Arizona). ¶

(S) Public Law 98-64: Payments from judgment funds held in trust by the US Secretary of the Interior. ¶

(T) Public Law 98-123: Judgment funds held in trust and per capita and interest payments disbursed to the Red Lake Band of Chippewa Indians (Red Lake Nation or Miskwaagamiwi-Zaagaiganing). ¶

(U) Public Law 98-124: Judgment funds held in trust and per capita and interest payments made to the members of the Assiniboine (Nakoda) Tribe of the Fort Belknap Indian Community (Montana) and the Assiniboine Tribe of the Fort Peck Reservation (Montana). ¶

(V) Public Law 98-432: Judgment funds and income distributed to members of the Shoalwater Bay Indian Tribe. ¶

(W) Public Law 99-130: Per Capita and dividend payment distributions of judgment funds to members of Santee Sioux Tribe (Santee Sioux Nation) of Nebraska, Flandreau Santee Sioux Tribe, Prairie Island Sioux (Prairie Island Indian Community or Tinta Wita), Lower Sioux (Lower Sioux Indian Community or Cansa'yapi) and Shakopee Mdewakanton Sioux Community (Mdewakanton) of Minnesota. ¶

(X) Public Law 99-146, section 6(b): Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior (Lake Superior Chippewa Indians). The funds are distributed to the following reservations: ¶

(i) Wisconsin: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Lac Courte Oreilles Band of Lake Superior Bands of Chippewa Indians (Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin) of the Lac du Flambeau Reservation, Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Red Cliff Reservation (Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin), St. Croix Chippewa Reservation (St. Croix Chippewa Indians of Wisconsin). ¶

(ii) Michigan: Keweenaw Bay Indian Community (L'Anse, Lac Vieux Desert and Ontonagon Bands). ¶

(iii) Minnesota: Fond du lac (Fond du Lac Band of Lake Superior Chippewa or Nah-gah-chi-wa-nong) Reservation, Grand Portage (Grand Portage Band of Lake Superior Chippewa, Grand Portage Anishinaabe, or Gichi-Onigaming) Reservation, Bois Fort (Bois Forte Band of Chippewa or Zagaakwaandagowiniwag) Reservation (including Nett Lake, Vermillion Lake and Deer Creek), White Earth (White Earth Nation or Gaa-waabaabiganikaag) Reservation. ¶

(Y) Public Law 99-264: Payments and funds held in trust to the White Earth Band of Chippewa Indians in Minnesota (White Earth Nation or Gaa-waabaabiganikaag) under the White Earth Reservation Land Settlement Act of 1985, Section 16. ¶

(Z) Public Law 99-346 section 6(b)(2): Per capita payments and income from a distribution of funds held in trust to the Saginaw Chippewa Indian Tribe of Michigan. ¶

(AA) Public Law 99-377 section 4(b): Per capita payments distributed or held in trust to the Chippewas of Mississippi under Public Law 99-377 Section 4(b), to those with affiliation with the Mille Lacs (Mille Lacs Band of Ojibwe or Misi-zaaga'iganiing), White Earth (White Earth Nation or Gaa-waabaabiganikaag) and Leech Lake (Leech Lake Band of Ojibwe or Gaa-zagaskwaajimekaag) Reservations in Minnesota, and paid by the Indian Claims Commission. ¶

(BB) Public Law 100-139: Judgment payments disbursed to the Umpqua Tribe Cow Creek Band (Cow Creek Band of Umpqua Tribe of Indians).¶

(CC) Public Law 100-383: Per capita restitution payments made to eligible Aleuts (Unangan or Unangax) who were relocated or interned during World War II.¶

(DD) Public Law 101-41: Funds, assets or income received from the trust fund established and paid to the Puyallup Tribe (the Puyallup Tribe of Indians or see emboldened word in attachment) of the State of Washington under Section 9(b) of the Puyallup Tribe of Indians Settlement Act of 1989.¶

(EE) Public Law 101-503 Section 8(b): Settlement payments, funds distributed or held in trust to members of the Seneca Nation (Seneca Nation of Indians or O-non-dowa-gah) under the Seneca Nation Settlement Act of 1990.¶

(FF) Public Law 102-171: Payments to the Aroostook Band (Mi'kmaq Nation) under the Micmac Settlement Act.¶

(GG) Public Law 103-116: Settlement funds, income, payments or distributions from Trust Funds to members of the Catawba Indian Tribe (The Catawba Nation or yeh is-WAH h'reh) under the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993.¶

(HH) Public Law 103-436: Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (comprised of the Chelan or see emboldened word in attachment, Chief Joseph Band of Nez Perce or wal'wama, Colville or see emboldened word in attachment, Entiat or see emboldened word in attachment, Lakes or see emboldened word in attachment, Methow or see emboldened word in attachment, Moses-Columbia or see emboldened word in attachment, Nespelem or see emboldened word in attachment, Okanogan or see emboldened word in attachment, Palus or paluspam, Sanpoil or see emboldened word in attachment, and Wenatchi or see emboldened word in attachment).¶

(II) Public Law 103-444: Payments made or benefits granted by the Crow Boundary Settlement Act of 1994.¶

(JJ) Public Law 105-143: Distributions of judgment funds to the Ottawa and Chippewa of Michigan under the Michigan Indian Land Claims Settlement Act.¶

(KK) Public Law 108-270: Per capita distribution of judgment funds to members of the Western Shoshone Indians (Newe).¶

(LL) Public Law 111-291 section 101: Payments from the Tribal Trust Accounting and Management Lawsuits. If the funds are comingled with other funds, the resource is excluded for only 12 months and counted thereafter.¶

(MM) Tribal Benefits from timber sales or oil reserves from land held in trust by the Secretary of the Interior.¶

(NN) Payments from the Bureau of Indian Affairs from the General Assistance program.¶

(c) Educational income from the Bureau of Indian Affairs is treated pursuant to section (24) of this rule.¶

(d) The following payments are excluded unearned income:¶

(A) Public Law 85-794: Distribution of Per Capita Funds to the Red Lake Band of Chippewa Indians (Red Lake Nation or Miskwaagamiwi-Zaagaiganing) from the proceeds of the sale of timber and lumber on the Red Lake Reservation.¶

(B) Public Law 93-134: Indian Judgement Funds Distribution Act payments received from trust or restricted lands under 25 USC 1408.¶

(C) Public Law 97-458: Payments received from trust or restricted lands under 25 USC 1408.¶

(e) The Department excludes the first \$2,000 of each per capita payment per individual in the financial group and the balance is counted as unearned periodic income of the following payments:¶

(A) Public Law 100-411: Per capita payments of claims settlement funds to members of the Coushatta Tribe of Louisiana (The Sovereign Nation of the Coushatta Tribe of Louisiana).¶

(B) Public Law 100-581: Judgment funds distributed to members of the Wisconsin Band of Potawatomi (Hannahville Indian Community and Forest County Potawatomi).¶

(C) Public Law 101-618: Per capita distributions of settlement funds under the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Toi-Ticutta). ¶

(f) Public Law 101-277 funds appropriated in satisfaction of judgments awarded to the Seminole and paid by the Indians Claims Commission is counted as follows:¶

(A) The Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income. ¶

(B) These payments are allocated to members of the Seminole Nation of Oklahoma, Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole of Florida.¶

(g) The Department excludes the first \$2,000 of each capita payment per individual in the financial group and counts the balance as unearned periodic income:¶

(A) Public Law 94-189: Judgment funds distributed to members of the Sac and Fox Nation.¶

(B) Public Law 98-602: Per Capita distributions of judgment funds to members of the Wyandotte Tribe (Wyandotte Nation, see emboldened word in attachment, or Wanda; consisting of Tionontati, Attignawantan, and Wenrohonon (Wenro)) in Oklahoma and Absentee Wyandotte.¶

(h) The following payments are excluded unearned income:¶

(A) Public Law 92-254: Distribution of Per Capita Funds by the Blackfeet Tribe and Gros Ventre (Aaniih) Tribe

- tribal governments to members, which resulted from judgment funds to the Tribes.¶
- (B) Public Law 103-66: Payments for land held in trust by the Secretary of the Interior under 25 USC 1408.¶
- (C) Payments from land designated as American Indian or Alaska Native trust land and not addressed elsewhere in this rule.¶
- (i) For the following payments, the Department excludes the first \$2,000 each year of per capita payments per individual in the financial group and counts the balance as unearned periodic income.¶
- (A) Public Law 92-203, the Alaska Native Claim Settlement Act payments.¶
- (B) Public Law 100-241, the Alaska Native Claim Settlement Act Amendment of 1987.¶
- (j) Public Law 98-500, section 8(b) (Old Age Assistance Claims Settlement Act) payments are excluded in the ERDC program.¶
- (k) The Department excludes the first \$2,000 of each per capita payment per individual in the financial group and counts the balance as unearned periodic income for the following:¶
- (A) Public Law 100-580: Funds distributed to the Hoopa Valley Tribe and the Yurok Tribe under the Hoopa-Yurok Settlement Act, and paid by the Indian Claims Commission.¶
- (B) Public Law 97-436: Per capita distributions of judgment funds to members of the Confederated Tribes (Wascoes, Warm Springs, Paiutes) of the Warm Springs Reservation.¶
- (l) Tribal payments for child care are treated as follows:¶
- (A) Provider-direct payments are counted as the provider's earned income.¶
- (B) All individual-direct payments are excluded.¶
- (m) Commercial fishing income under one of the Columbia River Fishing Treaties for the Confederated Tribes and Bands of the Yakama (formerly Yakima) Indian Nation (comprised of the Yakama Palouis, Pisquouse, Wenatchsahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Ocehchotes, Ka-milt-pha, and Se-ap-Cat), Confederated Tribes of the Warm Springs (comprised of the Wascoes, Warm Springs, and Paiutes), Confederated Tribes of the Umatilla Indian Reservation (comprised of the Cayuse, Umatilla, and Walla Walla), and Nez Perce Tribe (Nimiipuu) is counted as earned income.¶
- (n) Tribal-TANF payments are counted in the same manner as TANF program payments under section (56) of this rule. ¶
- (o) All other American Indian or Alaska Native benefit payments distributed by the tribe and not excluded by public law are excluded, including:¶
- (A) Profit share or per capita income from tribal casinos.¶
- (B) Income derived from fee property (land not held in trust by the Secretary of the Interior), such as timber sales or sale of oil reserves.¶
- (C) Public Law 91-259: Payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla Indian Reservation (comprised of the Cayuse, Umatilla, and Walla Walla).¶
- (p) American Indian or Alaska Native lands held jointly with the tribe, or land that may not be sold without the approval of the Bureau of Indian Affairs (BIA) are excluded resources.¶
- (38) Individual Development Account (IDA)¶
- (a) An Individual Development Account (IDA) is a trust-like savings account established under P.L. 105-285 designed to help low-income individuals save for specified purposes. The individual makes deposits from their earnings, and these are matched by a combination of government and private-sector funds.¶
- (b) Deposits from the account holder's earnings are excluded from gross earned income. ¶
- (c) Matching deposits from government and private-sector funds are excluded from income.¶
- (d) The IDA savings account is excluded from resources.¶
- (e) Interest earned by the IDA savings account is excluded from income.¶
- (f) For patient liability calculations, all income deposited into an IDA savings account is counted as earned income.¶
- (g) If an individual makes an emergency withdrawal from the IDA savings account, that income is counted as lump-sum income and therefore excluded.¶
- (39) Inheritance¶
- (a) An inheritance may be received in the form of monies, property, or other assets.¶
- (b) An inheritance is excluded. ¶
- (40) In-Kind Income¶
- (a) This rule does not apply to shelter-in-kind income. (See section (63) of this rule for shelter-in-kind income).¶
- (b) In-kind income that is earned is treated according to the administrative rules on earned income.¶
- (c) In-kind income that is unearned (except third-party payments) is treated as follows:¶
- (A) Income from court-ordered community service work or bartering is excluded. Bartering is the exchange of goods of equal value.¶
- (B) Items such as cars and furniture are treated according to the administrative rule for the specific type of asset.¶
- (d) Unearned third-party payments are treated as follows: Payments made to a third party that should legally be

paid directly to a member of the financial group are counted as unearned income.¶

(e) Payments made to a third party that the payee is not legally obligated to pay directly to a member of the financial group and that the financial group does not have the option of taking as cash, and payments made by the noncustodial parent to a third party that are court-ordered are excluded. ¶

(41) Job Corps¶

(a) A living allowance payment is counted as earned income.¶

(b) A readjustment allowance payment is counted as earned income. ¶

(c) A support service payment for an item already covered by the benefits of the benefit group is counted as unearned income. All other support service payments (including clothing allowances) are excluded.¶

(d) A reimbursement is treated as provided in section (60) of this rule.¶

(42) Workforce Innovation and Opportunity Act: Payments to individuals made under Title I-B of the Workforce Innovation and Opportunity Act (WIOA) are treated as provided in this rule.¶

(a) Need-based (stipend) payments are treated as unearned income.¶

(b) OJT (On-the-Job Training) and work experience payments are counted as earned income.¶

(c) A support service payment for an item already covered by the benefits of the benefit group is excluded. All other support service payments (including lunch payments and clothing allowances) are excluded.¶

(d) A reimbursement is treated as provided in section (60) of this rule.¶

(e) YouthBuild Program payments are excluded.¶

(43) Life Estate: If a financial group is living in real property while a member holds a life estate in this property, the property is treated as a home pursuant to section (32) of this rule.¶

(44) Life Insurance¶

(a) Benefits paid on a life insurance policy are counted as unearned income in the month received.¶

(A) The Department counts benefits as received upon the death of insured individual or when the insured individual is eligible for and receives accelerated payments before death, such as when the insured individual has a terminal illness.¶

(B) When the payment is a lump sum due to the death of the insured individual a deduction is allowed, not to exceed \$1,500, for the cost of the deceased individual's last illness and burial if these costs were not otherwise insured.¶

(b) Burial insurance that generates a cash surrender value is treated in the same manner that this rule treats life insurance.¶

(c) Burial insurance that does not generate a cash surrender value is excluded.¶

(d) When the ownership or beneficiary of a life insurance policy has been irrevocably assigned and designated for burial, it is treated in accordance with section (9) of this rule and is not counted towards the \$1,500 life insurance limit.¶

(e) The value of the life insurance policy is treated as follows:¶

(A) All term insurance that has no cash surrender value is excluded.¶

(B) The cash surrender value of the life insurance policy is excluded.¶

(45) Loans and Interest on Loans¶

(a) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other sections of this rule. ¶

(b) For the purposes of section (45):¶

(A) "Reverse-annuity mortgage" means a contract with a financial institution under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.¶

(B) The proceeds of a home equity loan or reverse-annuity mortgage are considered loans.¶

(c) In order to treat payments as a loan that a member of the financial group receives as a borrower, there must be an oral or written loan agreement. This agreement must state when repayment of the loan is due to the lender.¶

(d) Payments for a purported loan that do not meet the requirements of subsection (c) of section (45) are counted as unearned income.¶

(e) When a member of a financial group receives cash proceeds as a borrower from a loan that meets the requirements of subsection (c) of section (45):¶

(A) Educational loans are treated according to section (24) of this rule.¶

(B) The loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with section (4) of OAR 414-175-0030.¶

(46) Lodger Income¶

(a) Lodger income is the amount a lodger pays the filing group for room (rent) and board (meals).¶

(b) Lodger income is treated as self-employment income.¶

(47) Manufactured and Mobile Homes¶

(a) Manufactured and mobile homes are treated in the same manner as real property under section (58) of this

rule.¶¶

(b) Manufactured and mobile homes are subject to sections (32) and (35) of this rule, if applicable.¶¶

(48) Military Income: Military income (pay and allowances of a member of a uniformed service) is treated as follows:¶¶

(a) Military income is counted as earned income of the member's financial group, except as provided in subsection (a)(ii) of section (48), below.¶¶

(b) The portion of military pay and allowances available to the financial group is counted as unearned income if the member is not included in the filing group.¶¶

(49) Vehicles: All motor vehicles and recreational vehicles are excluded. ¶¶

(50) National and Community Services Trust Act (NCSTA), including AmeriCorps (other than AmeriCorps VISTA)¶¶

(a) 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.¶¶

(b) NCSTA payments, including AmeriCorps (see Section (50) of this rule) are treated as follows:¶¶

(A) The living allowance (stipend benefits) is excluded.¶¶

(B) Educational awards and in-kind benefits are excluded.¶¶

(C) For individuals who are eligible for direct provider payment of child care, the allowance is counted as unearned income. The allowance is excluded only if the individual already pays the provider. The provider may be paid for only the costs not covered by the allowance.¶¶

(51) Older Americans Act¶¶

(a) Benefits under Title III of the Older Americans Act of 1965 (Nutrition Program for the Elderly) are excluded.¶¶

(b) A wage or salary paid under Title V of the Older Americans Act of 1965 (Experience Works, American Association of Retired Persons, National Association for Spanish-Speaking Elderly, National Council on Aging, National Council on Black Aging, National Council of Senior Citizens, National Elder Urban League, U.S. Forest Service) is considered earned income.¶¶

(c) Payments under Title V of the Older Americans Act of 1965 that are not a wage or salary are excluded.¶¶

(52) Pension and Retirement Plans¶¶

(a) Pension and retirement plans include the following:¶¶

(A) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum or monthly payments.¶¶

(B) Benefits that employees are allowed to withdraw when they leave a job before retirement.¶¶

(C) The following retirement plans authorized by section 401 of the Internal Revenue Code of 1986:¶¶

(i) Traditional Defined-Benefit Plan.¶¶

(ii) Cash Balance Plan.¶¶

(iii) Employee Stock Ownership Plan.¶¶

(iv) Keogh Plan.¶¶

(v) Money Purchase Pension Plan.¶¶

(vi) Profit-Sharing Plan.¶¶

(vii) Simple 401(k).¶¶

(viii) 401(k).¶¶

(D) Retirement plans authorized by section 403 of the Internal Revenue Code of 1986 at subsections (a) or (b).¶¶

(E) The following retirement plans and annuities authorized by section 408 of the Internal Revenue Code of 1986 at subsections (a), (b), (c), (k), (p), or (q), or at section 408A:¶¶

(i) Individual Retirement Annuity.¶¶

(ii) Individual Retirement Account (IRA).¶¶

(iii) Deemed Individual Retirement Account or Annuity under a qualified employer plan.¶¶

(iv) Accounts established by employers and certain associations of employees.¶¶

(v) Simplified Employee Pension (SEP).¶¶

(vi) Simple Individual Retirement Account (Simple-IRA).¶¶

(vii) Roth IRA.¶¶

(F) The following retirement plans offered by governments, nonprofit organizations, or unions:¶¶

(i) 457(b) Plan.¶¶

(ii) 501(c)(18) Plan.¶¶

(iii) Federal Thrift Savings Plan under 5 USC 8439.¶¶

(G) An annuity purchased by an individual with funds from a plan authorized under subsection (a)(iii), (iv) or (vi) of section (52), above.¶¶

(b) An annuitized retirement plan described in subsection (a)(v) of section (52), purchased by the spouse, is not



considered a retirement plan and is treated in accordance with section (6) of this rule.¶

(c) Benefits an individual receives from pension and retirement plans are treated as follows:¶

(A) Monthly payments are counted as unearned income.¶

(B) All payments not covered by subsection (a) of this section are counted as periodic income or lump-sum income.¶

(d) The equity value of a pension and retirement plan that allows an individual to withdraw funds before retirement, minus any penalty for early withdrawal, is counted as a resource.¶

(53) Personal Belongings¶

(a) Personal belongings are items needed for maintenance and occupancy of the home and personal items found in or near the home that are used on a regular basis, are ordinarily worn or carried by the individual, or otherwise have an intimate relation to the individual. The value of personal belongings is excluded.¶

(b) Items that otherwise meet the definition of personal belongings but were acquired or are held for their value or as an investment are not personal belongings. The value of such items is counted.¶

(54) Personal Injury Settlements¶

(a) Personal injury settlements are excluded. ¶

(b) This rule does not apply to workers compensation payments (see section (79) if this rule for the treatment of those payments).¶

(55) Plans for Self Support¶

(a) A plan for self support may be approved by the Social Security Administration or the Oregon Department of Human Services. ¶

(b) Assets listed in an approved plan for self support are excluded.¶

(56) Program Benefits¶

(a) An EA payment made directly to the individual is counted as unearned income. Dual payee and provider-direct payments are excluded.¶

(b) Employment Payments (see OAR 461-001-0025 and 461-135-1270) are excluded.¶

(c) Payments from ERDC are excluded unless the individual is the provider.¶

(d) Payments from the MAGI medical (including MAGI-CHIP), OSIPM, QMB, and REFM programs are excluded.¶

(e) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.¶

(f) SNAP payments are treated as follows:¶

(A) The value of a SNAP benefit is excluded.¶

(B) OFSET service payments are excluded.¶

(g) Benefits from the GA, OSIP (except OSIPM-ICP), REF, SFPSS, TANF, and tribal-TANF programs are counted as unearned income.¶

(h) JOBS, REF, and TANF JOBS Plus support service payments are excluded. For the treatment of JOBS Plus income, see section (21) of this rule.¶

(i) Payments and funds held in a contingency fund from OSIPM-ICP (OSIPM-Independent Choices Program) are excluded. ¶

(j) Pre-TANF program payments are excluded. ¶

(k) TA-DVS payments are excluded.¶

(l) TANF Jobs Plus income is excluded.¶

(m) Wages received under the Tribal TANF Jobs programs is excluded.¶

(57) 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 and are excluded. ¶

(58) Real Property¶

(a) For purposes of this section (58), manufactured and mobile homes and floating homes and houseboats are treated in the same manner as real property.¶

(b) The applicant has the burden of proof of establishing the fair market value of real property. Fair market value may be established by any methodology determined to accurately reflect the fair market value of the real property, including the provision of an appraisal or comparative market analysis performed by an impartial individual who is certified or licensed in the applicable jurisdiction.¶

(c) Real property that is not income-producing or the home of the financial group is treated is excluded.¶

(d) The treatment of real property that is income producing is covered in section (35) of this rule. ¶

(e) The treatment of the home of the financial group is covered in section (32) of this rule.¶

(59) Refunds¶

(a) The Department excludes 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.¶

(b) The Department counts any refund amount remaining after the month of receipt as a resource.¶

(60) Reimbursement¶¶

(a) For the treatment of USDA meal reimbursements, see section (74) of this rule.¶¶

(b) The reimbursement of a business expense for an individual who is self-employed is treated as self-employment income.¶¶

(c) A reimbursement for child care expenses received from the Department of Early Learning and Care or the Oregon Department of Human Services is excluded. All other reimbursements for child care expenses are counted as unearned income.¶¶

(d) All other reimbursements are excluded. ¶¶

(61) Reception and Placement (R&P) and Welcome Corps Grants¶¶

(a) A Reception and Placement (R&P) grant is a payment made by the United States Department of State through a national refugee resettlement agency to a local resettlement agency, refugee sponsor, or refugee. A Welcome Corps grant is money raised by a private sponsor group on behalf of a refugee. A R&P grant is provided to the resettlement agency. A Welcome Corps Grant is provided by the private sponsor group. The grants are to help with the costs of initial resettlement of a refugee in the United States. Part of the grant is provided to the refugee, usually in the refugee's first three months after arrival, for the refugee's initial resettlement needs and not for ongoing living expenses.¶¶

(b) A R&P or Welcome Corps grant is excluded from consideration as income or a resource for purposes of determining program eligibility or benefit levels.¶¶

(62) Sale of a Resource: All proceeds from the sale of a resource are excluded as income and as a resource.¶¶

(63) Shelter In-Kind Income¶¶

(a) Shelter-in-kind payments are excluded, except earned shelter-in-kind is not excluded.¶¶

(b) A payment for which there is a legal obligation to pay to a member of the financial group that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.¶¶

(64) Social Security Benefits: Except for Supplemental Security Income (SSI) and death benefits remaining after burial costs, Social Security benefits:¶¶

(a) All payments other than monthly payments are counted as periodic or lump-sum income, except that the representative payee fee paid by an individual who is required by the Social Security Administration to receive payments through a representative payee is excluded. ¶¶

(b) The amount of the exclusion is limited to the amount authorized by the Social Security Administration.¶¶

(65) Social Security Death Benefit. Money remaining from Social Security death benefits after the payment of burial costs is treated as lump-sum income and therefore excluded. ¶¶

(66) Spousal Support. Spousal support is counted as unearned income.¶¶

(67) Supplemental Security Income¶¶

(a) If an individual is required by law to receive a Supplemental Security Income (SSI) benefit through a representative payee, the representative's fee is excluded.¶¶

(b) A monthly SSI payment is counted as unearned income.¶¶

(c) Lump-sum SSI payments are excluded. ¶¶

(68) Stocks, Bonds, and Other Securities¶¶

(a) The equity value of mutual funds, and securities, including stocks, bonds, educational savings bonds, and certificates of deposit (CDs), is counted as a resource, except that the value of a savings bond issued by the United States Department of the Treasury is excluded during the minimum retention period if the owner has received a denial of a request for a hardship waiver based on financial need.¶¶

(b) Interest and dividends on items covered by subsection (a) of this section (68) are treated as provided in section (18) of this rule.¶¶

(69) Striker's Benefits. Strikers' benefits are payments made to strikers by their union, whether or not based on the striker's participation in picketing and are counted as unearned income.¶¶

(70) Tax Refund¶¶

(a) Federal Tax Refunds:¶¶

(A) If received on or after January 1, 2010, federal income tax refunds are excluded from income and resources in the month of receipt and then for 12 full months starting with the month following the month of receipt of the refund or payment. All funds remaining after the 12-month period are counted as a resource.¶¶

(B) If received before January 1, 2010, federal income tax refunds are counted as a resource.¶¶

(b) State tax refunds and property tax refunds, including Elderly Rental Assistance (ERA) are:¶¶

(A) considered lump-sum income in the month received, and therefore excluded;¶¶

(B) counted as a resource in the month after the month of receipt.¶¶

(71) Trusts. All trust funds are excluded.¶¶

(72) Unemployment Compensation: Unemployment compensation benefits are treated as follows:¶¶

(a) Retroactive payments are counted as periodic or lump-sum income.¶¶

(b) Disaster Unemployment Assistance is treated as provided in section (17) of this rule.¶¶

(c) All payments not covered under sections (A) and (B) of this subsection (72)(a) are counted as unearned income.¶

(73) Uniform Relocation Act. Reimbursements from the Federal Uniform Relocation Assistance Act (42 U.S.C. 4621-4625) and from the Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651-4655) are excluded.¶

(74) USDA Meal Reimbursement¶

(a) A USDA meal reimbursement is counted as self-employment income, except for the portion excluded in accordance with subsection (b) of this section (74), below.¶

(b) The proportionate share of a USDA meal reimbursement for a child in the filing group is excluded.¶

(75) Veteran's Benefits¶

(a) Monthly payments are counted as unearned income.¶

(b) Other payments are counted as periodic or lump sum income.¶

(c) Educational benefits from the United States Veterans Administration are treated in accordance with subsection (24) of this rule.¶

(d) A subsistence allowance from a training and rehabilitation program of the United States Veterans Administration is treated as unearned income. ¶

(e) The following payments are excluded:¶

(A) Payments under 38 USC 1805 to biological children of Vietnam veterans who are born with spina bifida.¶

(B) Payments under 38 USC 1815 to children with birth defects born to female Vietnam veterans.¶

(76) Victim's Assistance¶

(a) Payments to victims of Nazi persecution covered by Public Law 103 286 and payments to victims of crime under 42 U.S.C. 10602 (The Crime Act of 1984) are excluded as income, and amounts retained are excluded as a resource as long as the amounts are not commingled with other funds.¶

(b) For other types of victim's assistance:¶

(A) Payments that are considered a reimbursement for a lost item are treated as provided in section (60) of this rule.¶

(B) Payments for pain and suffering are treated in the same manner as personal injury settlements under section (60) of this rule.¶

(77) Virtual Currency or Cryptocurrency¶

(a) As used in this section (77):¶

(A) "Cryptocurrency" is a type of currency available in virtual or digital form that functions as a medium of exchange with no central banking or regulating authority.¶

(B) "Day trading" is the buying and selling of cryptocurrency within the virtual market. The cryptocurrency market continuously runs because it is a worldwide market.¶

(C) "Mining" is a way to receive cryptocurrency (see subsection (a) of this section) through solving a series of mathematical problems. "Mining" requires a computer, an external hardware setup, and a special computer software program. To receive cryptocurrency through "mining", multiple people worldwide are attempting to solve a series of complicated mathematical problems via the "mining" software, and each receipt of cryptocurrency could require millions or billions of guesses at mathematical problems. The person to solve the final mathematical problem is the one to receive the cryptocurrency.¶

(D) "Wallet" is a way to store records of cryptocurrency transactions. Each cryptocurrency is assigned a public address, and when stored in a "wallet" the cryptocurrency is assigned a private key for protection. The cryptocurrency public address and private key are stored on a computer, mobile device, internal or external computer hardware, or a piece of paper and protected by private keys.¶

(b) Cryptocurrency is treated as follows:¶

(A) Cryptocurrency received as a payment from an employer is considered earned income.¶

(B) Cryptocurrency received in exchange for services or products provided may be either considered income from self-employment if the individual meets the self-employed criteria in subsection (81) of this rule or considered earned income.¶

(C) Cryptocurrency received as a gift is treated in the same manner as a gift in the form of money.¶

(D) Cryptocurrency received through mining is considered unearned income.¶

(E) Cryptocurrency received through an online casino is considered winnings (excluded).¶

(c) The day trading value of cryptocurrency is counted as a resource.¶

(A) After the month of receipt, cryptocurrency stored in a wallet is counted as a resource.¶

(B) Cryptocurrency stored in a wallet can be converted to liquid assets and follows the availability of resources rule.¶

(78) Vocational Rehabilitation Payment¶

(a) Vocational rehabilitation maintenance payments for food, shelter and clothing are counted as unearned income.¶

(b) A training allowance or stipend is treated as unearned income.¶

- (c) Educational income not covered under subsection (b) of this section (78), above, is treated as provided in subsection (24) of this rule.¶
- (d) Vocational rehabilitation payments for special itemized needs connected with the evaluation, planning or placement activity are treated as a reimbursement. These payments include payments for:¶
- (A) Child care.¶
  - (B) Clothing.¶
  - (C) Second residence.¶
  - (D) Special diet.¶
  - (E) Transportation.¶
- (e) Benefits from the United States Veterans Administration are treated as provided in section (75) of this rule.¶
- (79) Workers Compensation¶
- (a) For workers compensation payments received monthly or more frequently, income from workers compensation is counted as earned income if paid to an individual who is still employed while recuperating from an illness or injury.¶
- (b) For payments received less than monthly, income from workers compensation payments is counted as periodic or lump sum income. ¶
- (80) Work-Related Capital Assets, Equipment, and Inventory¶
- (a) As used in this rule:¶
- (A) "Inventory" means goods that are in stock and available for sale to prospective customers.¶
  - (B) "Work-related equipment" means property essential to the employment or self-employment of a financial group member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.¶
- (b) A capital asset, other than work-related equipment and inventory, is treated as follows: the equity value of a capital asset is treated according to the rules for the asset.¶
- (c) The equity value of work-related equipment is excluded.¶
- (d) Inventory is excluded as long as the individual is engaged in self-employment activities.¶
- (81) Self-Employment Income¶
- (a) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in subsections (b) or (c) of this rule. Except as noted in section (c) of this section (81) when an individual has established a corporation, determine if the individual is self-employed according to section (b) of this section (81). If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.¶
- (b) Except as provided in section (35) of this rule, an individual is self-employed for the purposes of this division of rules if the individual meets the requirements of one or more of the below conditions:¶
- (A) Files taxes as self-employed for their business on their personal taxes.¶
  - (B) Is considered an independent contractor by the business.¶
  - (C) Meets all the following criteria:¶
    - (i) Is not required by the business to complete an IRS W-4 form;¶
    - (ii) Is not required to pay federal income tax or FICA payments from their paycheck(s);¶
    - (iii) Liability or worker's compensation insurance for the individual is not paid by the business;¶
    - (iv) Meets at least one of the following:¶
      - (I) Creates or provides the products or services they sell, or¶
      - (II) Sets the price for the products or services they sell;¶
    - (v) Is responsible for the business expense and losses; and¶
    - (vi) Receives profits from the business or could receive profits from the business but the business is not making a profit.¶
  - (c) Notwithstanding section (b) of this section (81):¶
    - (A) Homecare Workers paid by the Oregon Department of Human Services are not self-employed.¶
    - (B) Providers considered an employee of an Aging and People with Disabilities, Office of Developmental Disabilities Services, or Oregon Health Authority benefit recipient, such as Independent Choices Program (see OAR 411-030-0100) providers, Personal Support Workers (see OAR 411-375-0000), and Personal Care Attendants (see OAR 410-172-0810) are not self-employed.¶
    - (C) Specific self-employment income types and professionals:¶
      - (i) All of the following individuals are considered self-employed:¶
        - (I) Child care providers for the ERDC program;¶
        - (II) Adult foster home providers (see OAR 411-050-0602) paid by the Oregon Department of Human Services¶
        - (III) Realty agent.¶
      - (ii) The following income types are considered self-employment.¶

- (I) Selling plasma,¶
  - (II) Redeeming beverage containers,¶
  - (III) Foraging items to sell, or ¶
  - (IV) Engage in similar enterprises are considered to be self-employed.¶
  - (d) Self-employment income is counted prospectively to determine eligibility. Self-employment is annualized when it is:¶
    - (A) Received during less than a 12-month period but is intended as a full year's income. ¶
    - (B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.¶
    - (e) When determining the amount of countable self-employment income, use gross receipts and sales, including mileage reimbursements, before costs to meet the income limits in OAR 414-175-0050.¶
    - (f) If no member of the financial group has been self-employed for a sufficiently long period to ascertain the costs of self-employment, the costs may be estimated.¶
    - (g) The costs that are permissible to be excluded from self-employment gross sales and receipts include, but not limited to: ¶
      - (A) Labor (wages paid to an employee or work contracted out). ¶
      - (B) 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. ¶
      - (E) Service, repair, and rental of business equipment, including motor vehicles, and property that is owned, leased, or rented. ¶
      - (F) Advertisement and business supplies. ¶
      - (G) Licenses, permits, legal, or professional fees. ¶
      - (H) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense. ¶
      - (I) Charges for telephone service that are a necessary cost for self-employment. ¶
      - (J) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider can document the cost. If the provider cannot document the actual cost, the USDA meal reimbursement rates are used. ¶
      - (K) Materials purchased for resale, such as cosmetic products. ¶
      - (L) For newspaper carriers, the cost of newspapers, bags, and rubber bands. ¶
    - (h) The following costs are not permissible to be excluded from self-employment gross sales and receipts: ¶
      - (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. For purposes of this section, "depreciation" means a prorated lessening of value assigned to a capital asset (see OAR 414-175-0002) based on its useful life expectancy and initial cost. ¶
      - (E) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip. ¶
      - (F) Interest or fees on personal credit cards. ¶
      - (G) Personal telephone charges. ¶
      - (H) Shelter or utility costs associated with the individual's home, except as authorized by subsection (i) of this rule. ¶
      - (i) The portion of an expense that is for business use only is excluded when items are used for both business and personal purposes, such as automobiles and a residence, including utilities. ¶
  - (82) Paid Leave Oregon Benefits¶
    - (a) Payments from Paid Leave Oregon are counted as unearned income.¶
    - (b) Retroactive payments from Paid Leave Oregon are counted as periodic or lump-sum income (see 414-175-0002).¶
  - (83) Youth Experiencing Homelessness Program Direct Cash Transfer (DCT) Payments¶
    - (a) Youth Experiencing Homelessness Program DCT payments are provided to youth 18 to 24 years of age by the Oregon Department of Human Services. The payments help youth who are experiencing homelessness to establish housing stability and support successful independent living.¶
    - (b) The payments are excluded to determine countable assets.
- Statutory/Other Authority: ORS 329A.500  
 Statutes/Other Implemented: ORS 329A.500



AMEND: 414-175-0060

RULE SUMMARY: OAR 414-175-0060 is being amended to change the term individual to caretaker to align with the definition of caretaker as described 414-175-0002.

CHANGES TO RULE:

414-175-0060

#### Reporting Changes

- (1) An individual caretaker is required to report a change in circumstances in accordance with the reporting system in which the individual caretaker participates.¶
- (2) The Department determines the appropriate reporting system.¶
- (3) In addition to any required report form, when an individual caretaker is required by this division of rules to report a change in circumstances, the report may be made by telephone, office visit, report form, or other written notice.¶
- (4) A change is considered reported effective the date an individual caretaker or authorized representative reports the information to an Oregon Department of Human Services branch office or within the ONE Applicant Portal.¶
- (5) When multiple changes are reported at the same time, they will have the same effective date.¶
- (6) A change reported by an individual caretaker or authorized representative for one program supported by the ONE Eligibility System is considered reported for all programs in which that individual caretaker participates.¶
- (7) A change in employment status is considered to occur as follows:¶
  - (a) For a new job, the change occurs the first day of the new job.¶
  - (b) For a job separation, the change occurs on the last day of employment.¶
- (8) A change in source of income is considered to occur as follows:¶
  - (a) For earned income, the change occurs upon the receipt by the individual caretaker of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.¶
  - (b) For unearned income, the change occurs the day the individual caretaker receives the new or changed payment.¶
- (9) An individual caretaker must report, orally or in writing, to the Oregon Department of Human Services the following changes within 10 days of occurrence:¶
  - (a) A change in employment status.¶
  - (b) A change in mailing address or residence.¶
  - (c) A change in membership of the filing group.¶
  - (d) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.¶
  - (e) A change in income above the 250 percent federal poverty level (FPL) or 85 percent state median income (SMI), whichever is higher, as described in OAR 414-175-0050, that is expected to continue.¶
- (10) An individual caretaker must report to the Direct Pay Unit of the Department, orally, or in writing, a change in child care provider. ¶
- (11) An individual caretaker is not required to report any of the following changes:¶
  - (a) Periodic cost-of-living adjustments to the federal Black Lung Program, SSB (Social Security Benefits), SSDI, SSI, and veterans assistance under Title 38 of the United States Code.¶
  - (b) Periodic cost-of-living adjustments to ERDC, GA, OSIP, REF, SFPSS, and TANF standards.¶
  - (c) Other changes in eligibility criteria based on legislative or regulatory actions.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

AMEND: 414-175-0065

RULE SUMMARY: OAR 414-175-0065 is being amended to clarify language from "individual" to a more specific title where applicable (e.g., caretaker, applicant, or child). These proposed language changes do not impact the operations of the ERDC program. Additionally, these proposed amendments include a reference to new content being added to 414-175-0024.

CHANGES TO RULE:

414-175-0065

Reapplication for ERDC

(1) At the end of the certification, authorized work search, medical leave, or military transition period, whichever is later, an ~~individual~~ applicant must complete and return to an Oregon Department of Human Services (ODHS) branch office or within the ONE Applicant Portal a reapplication form before a new certification period may be established under OAR 414-175-0011.¶

(2) A reapplication form is considered complete when it is received by a ODHS branch office or submitted within the ONE Applicant Portal by the 10th day of the last month of the certification, authorized work search, medical leave, or military transition period, whichever is later, and:¶

(a) The ~~individual~~ applicant answers, completely and accurately, all questions necessary to determine a copay amount for the following certification period;¶

(b) The ~~individual~~ applicant provides all required verification in accordance with OAR 414-175-0024; and¶

(c) The form contains the signature of the primary person or the authorized representative.¶

(3) When a ODHS branch office receives a completed reapplication form by the deadline in section (2) of this rule, the form is used to:¶

(a) Determine eligibility for ERDC benefits;¶

(b) Establish the ERDC benefit copay amount for the next certification period; and¶

(c) Establish the next certification period as beginning on the first day of the month following the last month of the previous certification, authorized work search, medical leave, or military transition period, whichever is later.¶

(4) When a ODHS branch office does not receive a completed reapplication form on or before the deadline in section (2) of this rule, the case is closed effective the last day of the last month of the certification, authorized work search, medical leave, or military transition period, whichever is later.¶

(5) If the reapplication form is received after the deadline in section (2) of this rule, it is treated as a new application in accordance with OAR 414-175-0005.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500



AMEND: 414-175-0070

RULE SUMMARY: OAR 414-175-0070 is being amended to clarify language from "individual" to a more specific title where applicable (e.g., caretaker, applicant, or child). These proposed language changes do not impact the operations of the ERDC program. Additionally, these proposed amendments include a reference to new content being added to 414-175-0024.

CHANGES TO RULE:

414-175-0070

Effective Dates

(1) The effective date for starting benefits is one of the following:¶

(a) The first day of the month in which the request for benefits is made if: ¶

(A) All eligibility requirements are met in that month; and¶

(B) Verification, in accordance with OAR 414-175-0024, 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, in accordance with OAR 414-175-0024, is provided within the application processing timeframes.¶

(2) The effective date for a change in an ERDC case will be:¶

(a) For changes reported on the reapplication form:¶

(A) The first day of the next certification period; or¶

(B) If changes will end benefits, the last day of the current certification period.¶

(b) For changes not reported on the reapplication form:¶

(A) For changes that require the certification period to be shortened, the effective date for the end of the certification period becomes the last day of the month in which the notice period ends. If the notice period ends the month after the change is reported, and the information results in an increase in benefits, adjust benefits for the last month of the shortened certification period.¶

(B) For all other changes that will cause:¶

(i) An increase in benefits, the effective date is the first of the month after the filing group reports the change.¶

(ii) 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.¶

(3) The effective date for adding an individual to the need group or benefit group is as follows:¶

(a) If adding the individual to the need group will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.¶

(b) If adding the individual to the need group increases the copay, for instance, because the individual receives income, the effective date is the first of the month following the end of the decision notice period.¶

(c) The effective date for adding a child to the benefit group, that is, covering the cost of the child's care, is the earliest of the following:¶

(A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.¶

(B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.¶

(C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.¶

(4) The effective date for removing an individual from a benefit group is as follows:¶

(a) If the individual has left the benefit group in the current budget month because they are ineligible, disqualified, or have left the household, the effective date is:¶

(A) The first of the month after the notice period ends, if the change will reduce benefits.¶

(B) The last day of the month in which the notice period ends, if the change will end benefits.¶

(b) If the individual is reasonably expected to leave the household next month, the effective date is the later of the following:¶

(A) The first of the month following the month in which the individual leaves the household group, if the change will reduce benefits.¶

(B) The end of the month in which the individual is expected to leave the household group, if the change will end benefits.¶

(c) ~~When~~Upon the death of an individual dies and is not the only individual in the benefit group, the effective date of the closure or reduction in benefits is the last day of the month in which the timely continuing benefit decision

notice period ends under OAR 414-175-0055.¶

(5) The effective date for denying benefits is the date the decision is made that the client is not eligible.¶

(6) For an Intentional Program Violation (IPV) disqualification (see OAR 414-175-0099), the disqualification ends the day after the minimum disqualification period ends, if there is no additional IPV disqualification to be served and all eligibility requirements are met.¶

(7) In the event of a new effective date of eligibility following closure of benefits or following the end of a certification period, eligibility starts the first day of the month of the date of request.¶

(8) If a proposed reduction or closure of benefits is delayed because ~~the individual requested a hearing~~ a hearing was requested, the reduction or closure is effective in accordance with the notice that precipitated the appeal.¶

(9) The effective date for restoring benefits that were underpaid (including erroneous collections of overpayments) or denied or closed in error is set as follows:¶

(a) For underpayments resulting from administrative error, the effective date is the date the error was made. Benefits may be restored only for a period of time within the preceding 12 months.¶

(b) For underpayments resulting from client error, the effective date is the earliest of the following:¶

(A) The month the benefit group notifies the Oregon Department of Human Services (ODHS) branch office of the possible loss.¶

(B) The month the ODHS branch office discovers the loss.¶

(C) The date a hearing is requested.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500