

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING
A Statement of Need and Fiscal Impact must accompany this form.

Department of Human Services, Office of Self-Sufficiency Programs			461
Agency and Division			Chapter Number
Kris Skaro	Human Services Building 500 Summer St NE, E-48 Salem, OR 97301	503-945-6067	kris.a.skaro@state.or.us
Rules Coordinator	Address	Telephone	Email Address

RULE CAPTION

Amending rules relating to the REF and REFM programs

Not more than 15 words that reasonably identify the subject matter of the agency's intended action.

PUBLIC RULEMAKING HEARING

Date:	2/23/2015	Location:	Human Services Building Room 255 500 Summer St. NE Salem, OR 97301
Time:	1:00 PM		
Hearings Officer:	Kris Skaro		

This location is accessible for people with mobility impairments and auxiliary aids are available upon request

RULEMAKING ACTION

AMEND: 461-001-0000, 461-101-0010, 461-110-0210, 461-110-0430, 461-145-0050,
461-145-0088, 461-145-0130, 461-145-0910, 461-145-0930, 461-193-0031

ORS 409.050, 411.060, 411.070, 411.083, 411.892, 412.049
Stat. Auth.

45 CFR 400
Other Auth.

ORS 409.050, 411.060, 411.070, 411.083, 411.892, 412.049
Stats. Implemented

RULE SUMMARY

OAR 461-001-0000 about definitions for rules in chapter 461 is being amended to: remove reference to the REF (Refugee) program from the definition of 'caretaker relative'; remove reference to the REF and REFM (Refugee – Medical) programs from the definitions of 'dependent child' and 'minor parent'; and clarify the definition of 'primary person' for the REF and REFM programs.

OAR 461-101-0010 about program acronyms used in chapter 461 is being amended to remove the reference to the REF and REFM programs in the description of the JOBS program.

OAR 461-110-0210 about household groups is being amended to clarify when an individual who is absent from the household for longer than 30 days remains part of the household group in the REF and REFM programs.

OAR 461-110-0430 about filing groups in the REF and REFM programs and 461-193-0031 about eligibility requirements for Refugee Case Services Project (RCSP) are being amended to restrict newly arrived refugees who are being reunited with a spouse who is currently residing in the U.S. from forming a separate filing group that excludes the previously arrived spouse.

OAR 461-145-0050 about how burial spaces and merchandise are treated when determining income and resources, OAR 461-145-0910 about how self-employment income is treated, and OAR 461-145-0930 about how costs are excluded are being amended to include REFM as a program to which these rules apply.

OAR 461-145-0088 about how corporations and business entities are treated when determining income and resources is being amended to include REF and REFM as programs to which the rule applies and to remove an unnecessary reference to the Oregon Health Plan (OHP).

OAR 461-145-0130 about earned income is being amended to remove an inapplicable reference to dependent children as it relates to how earned income is treated in the REF and REFM programs.

In addition, the above rules are being amended to reflect new Department terminology, correct formatting and punctuation, and update statutory and rule references.

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

A copy of the draft rules can be accessed at the self-sufficiency policy website:
http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

Written comments may be submitted until Friday, February 27, 2015 at 5:00 p.m. Written comments may be e-mailed to Kris.A.Skaro@state.or.us, faxed to 503-373-7032, or mailed to Kris Skaro, Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Last Day for Public Comment: Friday, February 27, 2015 at 5 p.m.



Self-Sufficiency Rules Coordinator	Kris Skaro	1/14/2015
	Printed Name	Date

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Department of Human Services, Office of Self-Sufficiency Programs
Agency and Division

461
Chapter Number

In the Matter of: Amending rules in chapter 461

Rule Caption: Amending rules relating to the REF and REFM programs

ORS 409.050, 411.060, 411.070, 411.083, 411.892, 412.049

Stat. Auth.

45 CFR 400

Other Auth.

ORS 409.050, 411.060, 411.070, 411.083, 411.892, 412.049

Stats. Implemented

Need for the Temporary Rule(s):

OAR 461-001-0000 about definitions for rules in chapter 461 needs to be amended because 'caretaker relative', 'dependent child', and 'minor parent' are not terms applicable to the REF or REFM programs. The rule also needs to be amended because this rule references the Oregon Health Plan (OHP) which is not governed by rules in chapter 461. (OHP is governed by Oregon Health Authority (OHA) rules in chapter 410.) These amendments clarify definitions that apply to the REF and REFM programs and remove the unnecessary reference to OHP.

OAR 461-101-0010 needs to be amended because the REF and REFM programs are not funded with TANF dollars and therefore are not involved with the JOBS program. This amendment removes reference to REF and REFM from the JOBS program description.

OAR 461-110-0210 needs to be amended because the current description of when an individual absent from the household for 30 days or more is no longer part of the household group uses terms that are not applicable to the REF and REFM programs. This amendment is needed to clarify when an individual is no longer part of the household in the REF and REFM programs.

OAR 461-110-0430 and 461-193-0031 need to be amended because a recent Office of Refugee Resettlement (ORR) review has determined that allowing a newly arrived refugee who is reuniting with a spouse who has already been resettled in the U.S. to create a separate filing group does not comply with 45 CFR 400. These amendments are needed to prohibit that practice in compliance with the ORR review and 45 CFR 400.

OAR 461-145-0050, 461-145-0910 and 461-145-0930 need to be amended because currently these rules relating to how burial spaces and merchandise and self-employment income are treated when determining income and resources do not apply to the REFM program. The amendments add REFM as a program to which the rules apply.

OAR 461-145-0088 needs to be amended because currently the rule relating to how corporations and business entities are treated when determining income and resources does not apply to the REF and REFM programs. The amendment adds REF and REFM as programs to which the rule applies.

OAR 461-145-0130 needs to be amended because dependent children are not part of the household group in the REF and REFM programs and therefore the reference to how their income is treated in those programs is unnecessary. This amendment removes the unnecessary reference.

Documents Relied Upon (and where they are available):

Office of Refugee Resettlement (ORR) Review findings available from the Department of Human Services, Refugee Program, located at 500 Summer St. NE E-48, Salem, OR 97301

Fiscal and Economic Impact:

The Department estimates that amending OAR 461-001-0000, 461-101-0010, and 461-110-0210 will have no fiscal impact on state agencies, including DHS, clients, providers, local government, the public, or business, including small business. No small businesses are subject to these rules. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-110-0430 and 461-193-0031 will have a negative fiscal impact on newly arrived refugees who have a spouse that arrived previously and has an income that puts the newly formed filing group over the income limits for REF and REFM assistance. It is estimated that up to seven cases a year will be ineligible for cash assistance, resulting in a loss of approximately \$26,000 per year for the entire refugee population. The program is federally funded so there is no corresponding positive fiscal impact on DHS. There is no fiscal impact on other state agencies, local government, the public, or business, including small business. No small businesses are subject to these rules. There is no cost of compliance for small business.

The Department estimates that amending OAR 461-145-0050, 461-145-0088, 461-145-0130, 461-145-0910, and 461-145-0930 will have no fiscal impact on state agencies, including DHS, providers, local government, the public, or business, including small business. Additionally, although the amendments relate to how resources are treated when determining program eligibility in the REF and REFM programs, they are not a change in current practice so there will be no fiscal impact on clients. No small businesses are subject to these rules. There is no cost of compliance for small business.

How were small businesses involved in the development of this rule?

Small businesses were not involved in the development of these rules, but are invited to provide input during the public comment period.

Administrative Rule Advisory Committee Consulted?

Yes.



Self-Sufficiency Rules Coordinator	Kris Skaro Printed Name	1/14/2015 Date
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461-001-0000

Definitions for Chapter 461

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

- (1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except --
 - (a) The rule in which reference occurs only regulates programs covered by Chapter 461 of the Oregon Administrative Rules.
 - (b) OCCS medical program eligibility rules are set out in the 410-200 division of Oregon Administrative Rules.
- (2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of *domestic violence*, sexual assault, or stalking.
- (3) "Adjusted income" means the amount determined by subtracting income deductions from *countable* income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.
- (4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.
- (5) "Assets" mean income and resources.
- (6) "Basic decision notice" means a *decision notice* mailed no later than the date of action given in the notice.
- (7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.
- (8) "Budgeting" means the process of calculating the benefit level.
- (9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine *eligibility* and benefit level for the *payment month*.

- (10) "Cafeteria plan" means a written benefit plan offered by an employer in which:
- (a) All participants are employees; and
 - (b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:
 - (A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);
 - (B) Group term life insurance plans (up to \$50,000);
 - (C) Dependent care assistance plans; and
 - (D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).
- (11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a *microenterprise*, either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.
- (12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a *child*. The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the *child* for 30 days.
- (13) "Caretaker relative" means:
- (a) In the Pre-TANF, ~~REF~~, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.
 - (b) In all programs not covered under subsection (a) of this section, a *caretaker* who meets the requirements of one of the following paragraphs:
 - (A) Is one of the following relatives of the *dependent child*:
 - (i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.
 - (ii) Stepfather, stepmother, stepbrother, and stepsister.

- (iii) An individual who legally adopts the *child* and any individual related to the individual adopting the *child*, either naturally or through adoption.
 - (B) Is or was a *spouse* of an individual listed in paragraph (A) of this subsection.
 - (C) Met the definition of "caretaker relative" under paragraph (A) or (B) of this subsection before the *child* was adopted (notwithstanding the child's subsequent adoption).
- (14) "Certification period" means the period for which an individual is certified eligible for a program.
- (15) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.
- (a) In the ERDC program, a "child" need not have a biological or legal relationship to the *caretaker* but must be in the care and custody of the *caretaker*, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:
 - (A) Under the age of 18; or
 - (B) Under the age of 19 and in secondary school or vocational training at least half time.
 - (b) In the GA, GAM, and OSIP programs, a "child" is an individual under the age of 18.
 - (c) In the OSIPM and QMB programs, "child" means an unmarried individual living with a *parent* who is:
 - (A) Under the age of 18; or
 - (B) Under the age of 22 and attending full-time secondary, postsecondary or vocational-technical training designed to prepare the individual for employment.
 - (d) In the REF and REFM programs, a "child" is:
 - (A) An individual under the age of 18; or
 - (B) An individual who is 18 years of age and attending secondary school full-time or pursuing a GED full-time.

- (16) "Community based care" is any of the following:
- (a) Adult foster care - Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.
 - (b) Assisted living facility - A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.
 - (c) In-home Services - People living in their home receiving services determined necessary by the Department.
 - (d) Residential care facility - A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.
 - (e) Specialized living facility - Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.
 - (f) Independent choices - In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).
- (17) "Continuing benefit decision notice" means a *decision notice* that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.
- (18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine *eligibility*.
- (19) "Cover Oregon" means Oregon Health Insurance Exchange Corporation.
- (20) "Custodial parents" mean parents who have physical custody of a *child*. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.
- (21) "Decision notice" means a written notice of a decision by the Department regarding an individual's *eligibility* for benefits in a program.
- (22) "Department" means the Department of Human Services (DHS).
- (23) "Dependent child"; in the ~~REF, REFM, and~~ TANF programs, program means the following:

- (a) An individual who is not a *caretaker relative* of a *child* in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or
- (b) A *minor parent* whose parents have chosen to apply for benefits for the *minor parent*. This does not apply to a *minor parent* who is married and living with his or her *spouse*.

(24) "Disability" means:

- (a) In the SNAP program, see OAR 461-001-0015.
- (b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining *eligibility*:
 - (A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or
 - (B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

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

- (a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.
- (b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.
- (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.
- (d) Using coercive or controlling behavior.
- (e) As used in this section, "family members" and "household members" mean any of the following:
 - (A) *Spouse*;
 - (B) *Former spouse*;

- (C) Individuals related by blood, *marriage*, or adoption;
- (D) Individuals who are cohabitating or have cohabited with each other;
- (E) Individuals who have been involved in a sexually intimate or dating relationship; or
- (F) Unmarried parents of a *child*.

- (26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of *domestic violence*. If the facility serves other people, a portion must be used solely for victims of *domestic violence*.
- (27) "Electronic application" is an application electronically signed and submitted through the [Internet](#).
- (28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.
- (29) "Equity value" means *fair market value* minus encumbrances.
- (30) "Fair market value" means the amount an item is worth on the open market.
- (31) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.
- (32) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain *family stability*.
- (33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.
- (34) "Income-producing property" means any real or personal property that generates income for the *financial group* ([see OAR 461-110-0530](#)). Examples of "income-producing property" are:
 - (a) Livestock, poultry, and other animals.
 - (b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the *financial group*), vacation homes, condominiums.

- (35) "Initial month" of *eligibility* means any of the following:
- (a) In all programs, the first month a *benefit group* (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.
 - (b) In all programs except the SNAP program, the first month a *benefit group* is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.
 - (c) In the SNAP program:
 - (A) The first month for which the *benefit group* is certified following any period during which they were not certified to participate, except for *migrant and seasonal farm workers* (see OAR 461-001-0015).
 - (B) For *migrant and seasonal farmworkers*, the first month for which the *benefit group* is certified following any period of one month or more during which they were not certified to participate.
 - (d) For a new applicant to the GA, GAM, OSIP, or OSIPM program applying for care in a *nonstandard living arrangement*, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of *assets*.
 - (e) For a current recipient of the GA, GAM, OSIP, or OSIPM program receiving or applying for care in a *nonstandard living arrangement*, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:
 - (A) The month the disqualifying transfer occurred.
 - (B) The month of application for *long-term-care* services if the client would have been eligible had it not been for the disqualifying transfer of *assets*.
- (36) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).
- (37) "Legally married" means a *marriage* uniting two individuals according to --
- (a) The statutes of the state where the *marriage* occurred;
 - (b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

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

(38) "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 ~~his or her~~ the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the *financial group* (~~see OAR 461-110-0530~~) purchases a "life estate" interest in the home of another individual.

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

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

(b) Pays the *filing group*:

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

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

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

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

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

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

(42) "Marriage" means the union of two individuals who are *legally married*.

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

(44) "Minor parent"; in the ERDC, ~~REF, REFM,~~ and TANF programs; means a *parent* under the age of 18.

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

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

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

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

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

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

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

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or [domestic violence shelter](#).

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

(F) Correctional facility.

(G) Medical institution.

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

(47) "OCCS Medical Programs" refers to programs for which [eligibility](#) policy can be found in division 410-200 of Oregon Administrative Rules, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

- (a) MAGI Adult;
- (b) MAGI Child;
- (c) MAGI Parent or Other Caretaker Relative;
- (d) MAGI Pregnant Woman; and
- (e) MAGI CHIP.

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

- (a) For all programs except the SNAP program, any month following the *initial month of eligibility*, if there is no break in the program benefit of one or more calendar months.
- (b) For the SNAP program, any month in the *certification period* following the *initial month of eligibility*.

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

- (a) If the mother lives with a male and either she or the male claims that he is the father of the *child* or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.
- (b) A stepparent relationship exists if:
 - (A) The individual is *legally married* to the child's biological or adoptive parent; and
 - (B) The *marriage* has not been terminated by legal separation, divorce, or death.
- (c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:
 - (A) The *child* lives with the biological parent; and
 - (B) The legal parent has given up care, control, and supervision of the *child*.

- (50) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.
- (51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.
- (52) "Periodic income" means income received on a regular basis less often than monthly.
- (53) "Primary person" for all programs except the SNAP program, means the *filing group* member who is responsible for providing information necessary to determine *eligibility* and calculate benefits. The "primary person" for individual programs is as follows:
- (a) For the TANF program, the *parent* or *caretaker relative*.
 - (b) For the ERDC program, the *caretaker*.
 - (c) For SNAP, see OAR 461-001-0015.
 - (d) For the GA, GAM, OSIP, OSIPM, ~~and~~ QMB, REF, and REFM programs: the client or client's *spouse*.
 - ~~(e) For the REF and REFM programs: the applicant, caretaker, caretaker relative, or parent.~~
- (54) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:
- (a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or
 - (b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.
- (55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".
- (56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.
- (57) "Safe homes" mean private homes that provide a few nights lodging to victims of *domestic violence*. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.
- (58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

- (59) "Shelter-in-kind" means an agency or person outside the *financial group* (~~see OAR 461-110-0530~~) 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, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.
- (60) "Sibling" means the brother or sister of an individual. "Blood-related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the *marriage* of their parents.
- (61) "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* (~~see OAR 461-110-0530~~).
- (62) "Spouse" means an individual who is *legally married* to another individual.
- (63) "Stable income" means income that is the same amount each time it is received.
- (64) "Standard living arrangement" means a location that does not qualify as a *nonstandard living arrangement*.
- (65) "Teen parent" means, for TANF and JOBS, a *parent* under the age of 20 who has not completed a high school diploma or GED.
- (66) "Timely continuing benefit decision notice" means a *decision notice* that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.
- (67) "Trust funds" mean money, securities, or similar property held by a person or institution for the benefit of another person.
- (68) "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.
- (69) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.001, 412.006, 412.014, 412.049

461-101-0010

Program Acronyms and Overview

- (1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program and acronyms for each subprogram.
- (2) When no program acronym appears in a rule in Chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.
- (3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code.
- (4) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.
- (5) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.
- (6) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.
- (7) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.
- (8) GA; General Assistance. Cash assistance to low-income individuals with disabilities who do not have dependent children.
- (9) GAM; General Assistance Medical. Medical assistance to clients who are eligible for the GA program but have not been found eligible for OSIPM benefits.
- (10) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.
- (11) JOBS; Job Opportunity and Basic Skills. An employment program for ~~REF, REFM, and~~ TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.
- (12) JOBS Plus. Provides subsidized jobs rather than SNAP or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for SNAP clients and

noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, SNAP clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

- (a) TANF-PLS; Clients eligible for JOBS Plus based on TANF.
 - (b) SNAP-PLS; Clients eligible for JOBS Plus based on SNAP.
 - (c) NCP-PLS; Noncustodial parents of children receiving TANF.
- (13) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of parents with children, who meet federal TANF participation rate, to meet the nutritional needs of their families.
- (14) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare clients who are eligible for extra help meeting their Medicare Part D prescription drug costs.
- (15) OFSET. The Oregon Food Stamp Employment Transition Program, which helps SNAP program benefit recipients find employment. This program is mandatory for some SNAP program benefit recipients.
- (16) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to persons who are blind, disabled, or 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:
- (a) OSIP-AB; Oregon Supplemental Income Program - Aid to the Blind.
 - (b) OSIP-AD; Oregon Supplemental Income Program - Aid to the Disabled.
 - (c) OSIP-EPD; Oregon Supplemental Income Program - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.
 - (d) OSIP-OAA; Oregon Supplemental Income Program - Old Age Assistance.

- (17) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:
- (a) OSIPM-AB; Oregon Supplemental Income Program Medical - Aid to the Blind.
 - (b) OSIPM-AD; Oregon Supplemental Income Program Medical - Aid to the Disabled.
 - (c) OSIPM-EPD; Oregon Supplemental Income Program Medical - Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.
 - (d) OSIPM-OAA; Oregon Supplemental Income Program Medical - Old Age Assistance.
 - (e) OSIPM-IC; Oregon Supplemental Income Program Medical - Independent Choices
- (18) The Post-TANF program provides a monthly transitional payment to employed clients who are no longer eligible for the Pre-TANF or TANF programs due to earnings, and meet the other eligibility requirements.
- (19) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.
- (20) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:
- (a) QMB-BAS; Qualified Medicare Beneficiaries - Basic. The basic QMB program.
 - (b) QMB-DW; Qualified Medicare Beneficiaries - Disabled Worker. Payment of the Medicare Part A premium for people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

- (c) QMB-SMB; Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.
- (d) QMB-SMF; Qualified Medicare Beneficiaries - Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.
- (21) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.
- (22) REFM; Refugee Assistance Medical. Medical coverage for low-income refugees.
- (23) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.
- (24) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low income seniors. Funded by a grant from the United States Department of Agriculture.
- (25) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).
- (26) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps, any reference to SNAP also includes FS and Food Stamps.
- (27) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of clients threatened by domestic violence.
- (28) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025, ~~414.231~~
414.826

Stats. Implemented: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049,
414.025, ~~414.231~~, 414.826, 414.839

461-110-0210
Household Group

- (1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless people, the household group consists of the individuals who consider themselves living together.
- (2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.
- (3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.
- (4) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:
 - (a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at *fair market value* (see OAR 461-001-0000) for housing.
 - (b) The tenant lives independently from the landlord.
 - (c) The tenant:
 - (A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or
 - (B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at *fair market value*.
- (5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:
 - (a) In the ERDC program, if a *child* (see OAR 461-001-0000) lives with different caretakers during the month, the *child* is considered a member of both household groups.
 - (b) In the TANF program:
 - (A) If a *parent* (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the *dependent child* (see OAR

461-001-0000), the *parent* is in the same household group as the *dependent child*.

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

(i) Education.

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

(iii) A family emergency.

(c) In the SNAP program:

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

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

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

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

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

(b) In the ERDC, ~~REF~~, ~~REFM~~, and TANF programs:

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

- (B) A *child* who is absent for 30 days or more is in the household group if the *child* is:
 - (i) Absent for illness (unless the *child* is in a long-term care Title XIX facility), social service, or educational reasons;
 - (ii) In foster care, but expected to return to the household within the next 30 days.

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

- (A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;
- (B) Absent to care for an emergent need of an individual related to illness, injury, or death; or
- (C) Absent but reasonably anticipated to return within 90 days.

~~(d) In the REFM program, in a two-parent household, a *parent* remains in the household group if the requirements of both of the following paragraphs are met:~~

- ~~(A) The *parent* is absent because of education, training or employment -- including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces; and~~
- ~~(B) The other *parent* remains in the home.~~

(ed) In the REF and TANF programs program when a filing group includes more than one *caretaker relative* (see OAR 461-001-0000), a *caretaker relative* in the household group who is absent because of education, training, or employment -- including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces.

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

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, ~~414.231~~
 Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.049, 414.025, ~~414.231~~, 414.826, 414.831, 414.839

461-110-0430
Filing Group; REF, REFM

In the REF and REFM programs:

- (1) The filing group consists of:
 - (a) A single *adult* (see section (62) of this rule) who has no *spouse* (see OAR 461-001-0000) or *dependent child* (see OAR 461-001-0000) in the *household group* (see OAR 461-110-0210); or
 - (b) A *legally married* (see OAR 461-001-0000) couple who is in the same *household group* and has no *dependent child* in the household group.
- ~~(2) A TANF program filing group (see OAR 461-110-0330) that has at least one *adult* and is ineligible for TANF program benefits may form an REF filing group.~~
- ~~(3) An MAA or MAF program filing group (see OAR 461-110-0330 and 461-110-0340) that has at least one *adult* and is ineligible for MAA or MAF program benefits may form an REFM filing group.~~
- ~~(4) A separate REF program filing group may be formed within a *household group* consisting of only *newly arrived* (see section (6) of this rule) refugees, if there is at least one *adult* in the newly formed filing group, and the requirements of at least one of the following subsections is met:
 - ~~(a) The *newly arrived* refugee *adult* is rejoining a *spouse* who has been more than eight consecutive months in the United States, and there are no minor children in the *household group*.~~
 - ~~(b) The *newly arrived* refugee *adult* is rejoining a *spouse* whose income is equal to or over the REF *countable* (see OAR 461-001-0000) income and *adjusted income* (see OAR 461-001-0000) limits (see OAR 461-155-0030). There are also no minor children in the *household group*.~~
 - ~~(c) The *newly arrived* refugee *adult* is rejoining a *spouse* or a *parent* (see OAR 461-001-0000) of a common *child* (see OAR 461-001-0000) in the *household group* who does not meet the REF program eligibility requirement under OAR 461-135-0900(2).~~
 - ~~(d) The previously arrived *spouse* or *parent* of a common *child* is working, and the individual's income is equal to or exceeds both the REF and TANF program *countable* income and *adjusted income* limits (see OAR 461-155-0030).~~~~
- ~~(5) A separate REFM program filing group may be formed within a *household group* consisting of only *newly arrived* refugees, if there is at least one *adult* in the newly~~

~~formed filing group, and the requirements of at least one of the following subsections is met:~~

- ~~(a) — The newly arrived refugee adult is rejoining a spouse who has been more than eight consecutive months in the United States, and there are no minor children in the household group.~~
- ~~(b) — The newly arrived refugee adult is rejoining a spouse whose income is equal to or over the income standard of any other program that provides OHP Plus benefits. There are also no minor children in the household group.~~
- ~~(c) — The newly arrived refugee adult is rejoining a spouse or a parent of a common child in the household group who does not meet the REFM program eligibility requirement under OAR 461-135-0900(2).~~
- ~~(d) — The previously arrived spouse or parent of a common child in the household group is working, and the individual's income is equal to or exceeds the income standard of any other program that provides OHP Plus benefits.~~

~~(62)~~ For purposes of this rule, an

- ~~(a) — "Adult" "adult" means an individual 18 years of age or older who is not attending secondary school full-time or pursuing a GED full-time.~~
- ~~(b) — "Newly arrived" means an individual who meets the requirements of OAR 461-120-0125(8) and has been in the United States for no more than eight consecutive months.~~

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 412.006, 412.049

461-145-0050

Burial Space and Merchandise

- (1) Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased persons. Burial spaces also include headstones and the opening and closing of the grave.
 - (a) In the ERDC, REF, [REFM](#), SNAP, and TANF programs, the *equity value* (see OAR 461-001-0000) of one burial space is excluded as a resource for each member of the *financial group* (see OAR 461-110-0530).
 - (b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the *equity value* of a burial space is excluded as a resource if owned by the client and designated for the client, the *spouse* (see [OAR 461-001-0000](#)) of the client, minor and adult children, siblings, parents, and the *spouse* of any of these people.
- (2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The *equity value* of burial merchandise is excluded as a resource if owned by the client and designated for ---
 - (a) In the ERDC, REF, [REFM](#), SNAP, and TANF programs, a member of the *financial group*.
 - (b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the client, the *spouse* of the client, minor and adult children, siblings, parents, and the *spouse* of any of these people.

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

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

Corporations and Business Entities; Income and Resources

- (1) The value of stocks or other ownership interest in a corporation is a resource.
- (2) Assets of the corporation essential to the employment of ~~a client an individual~~ are excluded. For instance, if the corporation owns equipment used by the ~~client individual~~ to produce income for the corporation, the equipment is an excluded resource. If ~~a client an individual~~ must own stock in the corporation as a condition of working for the corporation, the stock is an excluded resource.
- (3) Except as provided in OAR 461-140-0040(2) and section (4) of this rule, income of a corporation is not income of ~~a client an individual~~ with an ownership interest in the corporation until the income is distributed to the ~~client individual~~.
- (4) In the OHP, OSIP, OSIPM, QMB, ~~REF, REFM~~, and SNAP programs:
 - (a) An expenditure by a business entity or corporation that benefits a *principal* (see subsection (b) of this section) -- such as a car or housing payment -- is considered available when the expenditure is made.
 - (b) For purposes of this rule, a "principal" ~~is a person means an individual~~ with significant authority in a business entity or corporation, including a sole proprietor, a self-employed person (see OAR 461-145-0910), a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.
 - (c) See OAR 461-145-0130, 461-145-0280, and 461-145-0470 for the treatment of earned in-kind income.
- (5) In the SNAP program:
 - (a) Income from business entities and corporations is treated as follows:
 - (A) If ~~a client an individual~~ is actively working in a corporation, the income is treated as earned income.
 - (B) If ~~a client an individual~~ is actively working in an unincorporated business entity, refer to OAR 461-145-0910 to determine if the income is treated as earned or as self-employment.
 - (C) If ~~a client an individual~~ is no longer actively working to produce the income, the income is treated as unearned.
 - (b) Income from a limited liability company is treated as follows:

(A) If ~~a client~~ an individual is a member or a manager member, the income is treated as self-employment income.

(B) If ~~a client~~ an individual is a manager but not a member, the income is treated as earned income.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.049, ~~414.042~~

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.049, ~~414.042~~

461-145-0130

Earned Income; Treatment

- (1) Earned income (see OAR 461-145-0120) is *countable* (see OAR 461-001-0000) in determining *eligibility* (see OAR 461-001-0000) for programs, subject to sections (2) to (89) of this rule.
- (2) JOBS Plus income is earned income and is treated as follows:
 - (a) In the SNAP program:
 - (A) JOBS Plus income earned by a TANF-PLS (see OAR 461-101-0010(12)(a)) client:
 - (i) Is counted in determining initial SNAP program *eligibility*.
 - (ii) Is excluded in determining ongoing *eligibility*.
 - (B) JOBS Plus wages received after the ~~client's individual's~~ last month of work under a TANF-PLS JOBS Plus agreement are counted.
 - (b) In the TANF program:
 - (A) JOBS Plus income earned by an NCP-PLS (see OAR 461-101-0010(2012)(c)) client is counted in determining initial TANF *eligibility*.
 - (B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:
 - (i) It is excluded in determining the *countable* income limit and in calculating the benefit equivalency standards.
 - (ii) It is counted in calculating the wage supplement.
 - (C) JOBS Plus wages received after the ~~client's individual's~~ last month of work under a JOBS Plus agreement are counted.
 - (c) In the OSIPM, ~~and~~ QMB, ~~and~~ REF~~M~~ programs:
 - ~~(A) For JOBS Plus income earned by a TANF-PLS program client who is also in the REF~~M~~ program, the income is excluded when determining initial and ongoing program eligibility.~~
 - ~~(B)~~ JOBS Plus wages received after the ~~client's individual's~~ last month of work under a TANF-PLS JOBS Plus agreement are counted.

- (d) In all programs not covered under subsections (a) to (c) of this section, TANF-PLS income is counted as earned income.
- (e) In all programs other than the TANF program, NCP-PLS income is counted as earned income.
- (f) In all programs, ~~client~~ wages received under the Tribal TANF JOBS programs are counted as earned income.

(3) Welfare-to-Work work experience income is treated as follows:

- (a) In the REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.
- (b) In the SNAP program, the income is earned income.

(4) In the ERDC program, earned income of a *child* ([see OAR 461-001-0000](#)) is excluded.

(5) In the REF and REFM programs:

- (a) Income remaining after the month of receipt is a resource.
- (b) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).

(56) In the ~~REF, REFM, and TANF~~ programs program:

- (a) Earned income of the following children is excluded:
 - (A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.
 - (B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.
 - (C) Dependent children too young to be in school.

(b) Income remaining after the month of receipt is a resource.

(c) ~~In-kind earned~~ Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).

(67) In the SNAP program:

- (a) If a *cafeteria plan* (see OAR 461-001-0000) benefit that the employee ~~cannot~~may not elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department. If reimbursed, the Department counts it as earned income.
- (b) The following types of income are excluded:
 - (A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:
 - (i) Attending elementary or high school;
 - (ii) Attending GED classes recognized by the local school district;
 - (iii) Completing home-school elementary or high school classes recognized by the local school district; or
 - (iv) Too young to attend elementary school.
 - (B) ~~In-kind earned~~ Earned in-kind income, except as provided in section (78) of this rule.
 - (C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for ~~clients~~an individual on active military duty.
 - (D) Income remaining after the month of receipt is a resource.

(78) In the SNAP program, earned in-kind income (see OAR 461-145-0280) is excluded unless it is an expenditure by a business entity that benefits a *principal* (see OAR 461-145-0088).

(89) In all programs except in the OSIPM program for ~~a client~~an individual in a *nonstandard living arrangement* (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.400, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 414.231, 414.712, 414.826

Stats. Implemented: ORS 411.060, 411.070, 411.083, 411.400, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 414.231, 414.712, 414.826

Self-Employment; General

- (1) Self-employment income is income resulting from ~~one's~~ an individual's own business, trade, or profession, rather than from a salary or wage paid by an employer. ~~A client~~ An individual is considered self-employed if ~~he or she~~ the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when ~~a client~~ an individual has established a corporation, determine if the ~~client~~ individual is self-employed according to section (2) of this rule. If ~~a client~~ the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.
- (2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if ~~he or she~~ the individual:
 - (a) Is considered an independent contractor by the business that employs ~~him or her~~ the individual; or
 - (b) Meets at least four of the following criteria:
 - (A) Is engaged in an enterprise for the purpose of producing income.
 - (B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.
 - (C) Has principal responsibility for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.
 - (D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.
 - (E) Is not covered under an employer's liability or workers' compensation insurance policy.
- (3) Notwithstanding section (2) of this rule:
 - (a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.
 - (b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-~~0400~~0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick

mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a *microenterprise* (see OAR 461-001-0000), is counted prospectively to determine *eligibility* (see OAR 461-001-0000) as follows:

(a) Self-employment income is annualized when it is:

(A) Received during less than a 12-month period but is intended as a full year's income.

(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.

(b) Self-employment income is treated as anticipated income when a *financial group* (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.

(56) In the GA, OSIP, OSIPM, and QMB programs, self-employment income is considered *available* upon receipt by a member of the *financial group*, except it is prorated over the period of work if the duration of the work exceeds one month.

(7) In the REFM program:

(a) Self-employment income is counted only if received in the month of application.

(b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.

(68) When determining the amount of *countable* (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.006, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.816, 412.006, 412.049

461-145-0930

Self-Employment; Determination of Countable Income

- (1) The Department initially determines gross sales and receipts minus any returns and allowances (before excluding or deducting any costs). This rule explains how different programs exclude and deduct costs from self-employment gross sales and receipts.
- (2) In the ERDC program, if ~~a client~~ an individual claims an excludable cost permitted under OAR 461-145-0920, at least 50 percent of gross self-employment income is excluded. The maximum exclusion is the total excludable cost under OAR 461-145-0920.
- (3) In the GA, OSIP, OSIPM, ~~and~~ QMB, and REFM programs, all costs permitted under OAR 461-145-0920 are excluded.
- (4) In the TANF program:
 - (a) For ~~a client~~ an individual participating in the *microenterprise* (see OAR 461-001-0000) component of the JOBS program, costs are excluded according to OAR 461-145-0920 and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.
 - (b) For all other ~~clients~~ individuals, no costs are subtracted (excluded).
- (5) In the REF program, no costs are excluded.
- (6) In the SNAP program, if there are any costs permitted under OAR 461-145-0920, there is a deduction of 50 percent of gross self-employment income.

Stat. Auth.: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006, 412.009,
412.049, 414.231, 414.826, ~~414.831~~

Stats. Implemented: ORS 409.050, 411.060, 411.083, 411.404, 411.706, 411.816, 412.006,
412.009, 412.049, 414.231, 414.826, ~~414.831~~

461-193-0031

Eligibility Requirements; Refugee Case Services Project (RCSP)

In the RCSP program, to be eligible an applicant must meet the requirements of sections (1) to (6) of this rule, and section (7) if section (7) applies:

- (1) Meet all REF or TANF program *eligibility* (see OAR 461-001-0000) requirements.
- (2) Meet the alien status requirements under OAR 461-120-0125.
- (3) Reside in Clackamas, Multnomah, or Washington County.
- (4) Have resided in the U.S. for eight months or less. The first month is, for an individual meeting the alien status requirements of OAR 461-120-0125 --
 - (a) Subsections (8)(a), (c), (d), or (e), the month the individual entered the United States.
 - (b) Subsections (8)(b), (f), or (g), the month the individual was granted the individual's immigration status.
 - (c) Subsection (8)(h) --
 - (A) If the individual entered the U.S. with special immigrant status, the month the individual entered the United States.
 - (B) If the individual is granted special immigrant status after entering the U.S., the month in which the special immigrant status was granted.
 - (d) Each month in the U.S. is counted as a whole month; there is no prorating of any month.
- (5) Be 64 years old or younger.
- (6) Not be enrolled as a full-time student or intending to enroll as a full-time student within six months of RCSP program intake.
- (7) For a newborn, a *parent* ([see OAR 461-001-0000](#)) must provide verification of the child's birth, including the date of birth. The newborn child's U.S. arrival date and *eligibility* period are the same as those for the child's mother.
- ~~(8) — An RCSP case may be opened in cases of family reunification, when a newly arrived adult refugee is permitted to establish a separate filing group under OAR 461-110-0430.~~

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 412.006, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 412.006, 412.049