

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on April 6, 2012 by the
Date prior to or same as filing date.

Department of Human Services - Children, Adults and Families 461
Agency and Division Administrative Rules Chapter Number

Annette Tesch Human Services Building, 500 Summer St NE - E48, Salem, OR 97301 (503) 945-6067
Rules Coordinator Address Telephone

to become effective April 6, 2012 through September 30, 2012
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

ADOPT:

AMEND: 461-190-0211

SUSPEND:

ORS 411.060, 412.006, 412.009, 412.014, 412.049, 412.124, 2011 Oregon Laws 604
Stat. Auth.

42 USC 602(a)
Other Authority

ORS 411.060, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124, 2011 Oregon Laws 604
Stats. Implemented

RULE SUMMARY

OAR 461-190-0211 about case plan activities and standards for support service payments for the Department's Temporary Assistance for Needy Families Job Opportunity and Basic Skills (JOBS) program is being amended to modify program restrictions retroactive to March 14, 2012. The changes include: Work-site agreements for unpaid Support Work (SW) and Work Experience (WE) are no longer limited to four months for individuals to gain additional job skills and work history; District monthly family support services maximum amounts have been removed; and support services for limited family stability activities (services related to drug and alcohol, mental health, medical services, and rehabilitative activities) are allowed if needed.

Authorized Signer

Robert Trachtenberg
Printed Name Date

A copy of the temporary rules can be accessed at the Self-Sufficiency Programs website:
http://www.dhs.state.or.us/policy/selfsufficiency/ar_search.htm

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in the Rulemaking Action, and electronic copy of rules. ARC 940-2005

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Human Services - Children, Adults and Families

461

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Amending OAR 461-190-0211

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients

Statutory Authority: ORS 411.060, 412.006, 412.009, 412.014, 412.049, 412.124, 2011 Oregon Laws 604

Other Authority: 42 USC 602(a)

Statutes Implemented: ORS 411.060, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124, 2011 Oregon Laws 604

Need for the Temporary Rule(s):

OAR 461-190-0211 about case plan activities and standards for support service payments for the Department's Temporary Assistance for Needy Families Job Opportunity and Basic Skills (JOBS) program needs to be amended to improve the Department's compliance with federal participation requirements, promote self-sufficiency for mandatory individuals by expanding the ability to provide supports for participation in activities, lengthen the amount of time participants can gain work-place skills and expand work history, and provide flexibility to address family stability needs. These goals are promoted by the following rule changes: work-site agreements for unpaid Support Work (SW) and Work Experience (WE) are no longer limited to four months for individuals to gain additional job skills and work history; District monthly family support services maximum amounts have been removed; Support services for limited family stability activities (services related to drug and alcohol, mental health, medical services, and rehabilitative activities) are allowed if needed.

Documents Relied Upon (and where they are available): Report for the House Bill 5030 (2011) Budget Note on Temporary Assistance for Needy Families (TANF) and Job Opportunity and Basic Skills (JOBS) Programs – February 2012 available at <http://www.oregon.gov/DHS/aboutdhs/budget/2011-2013/docs/budget-note-2012-02tanf.pdf>

Justification of Temporary Rule(s):

The Department finds that failure to act promptly by amending OAR 461-190-0211 will result in serious prejudice to the public interest, the Department, and some JOBS program clients. The amended rule is needed to promote self-sufficiency for mandatory individuals by expanding the ability to provide supports for participation in activities, lengthen the amount of time participants

can gain work-place skills and expand work history, provide flexibility to address family stability needs. These rule changes cannot wait to be implemented after the full 49-day permanent rulemaking procedure because the public interest required the full implementation of these changes by March 14, 2012 to serve more families to improve their ability to move towards self sufficiency and to help the state meet federal participation requirements.

Authorized Signer

Robert Trachtenberg

Printed Name

Date

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in Chapter 461 and subject to the limitations of state funding, the following special provisions apply:

- (1) Participation in ~~a case plan (see OAR 461-001-0025)~~ **an activity** (see OAR 461-001-0025) is limited as provided in each of the following subsections:
 - (a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). Unless sections (10) or (11) of this rule apply, no other individual may participate in and access JOBS contract activities and *support services* (see OAR 461-001-0025).
 - (b) An individual who is an applicant in the Pre-TANF program or a recipient of TANF or Post-TANF program benefits.
- (2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities will be available, and include *support services* payments **if needed**:
 - (a) *Job search* (see OAR 461-001-0025).
 - (b) JOBS Plus (see OAR 461-001-0025 and OAR 461-101-0010) is limited to six months per individual.
 - (c) *Work experience* (see OAR 461-001-0025), ~~alone or in combination with any other unpaid volunteer work, is limited to a four month, work site agreement per individual.~~
 - (d) *Sheltered or supported work* (see OAR 461-001-0025), ~~alone or in combination with any other unpaid volunteer work, is limited to a four month, work site agreement per individual.~~
 - (e) High School or GED (see OAR 461-001-0025) limited to a *teen parent* (see OAR 461-001-0025).
 - (f) Parents as Scholars (see OAR 461-001-0025).
 - (g) **Limited family stability** (see OAR 461-001-0000).
 - (A) ***Drug and alcohol services*** (see OAR 461-001-0025).
 - (B) ***Mental health services*** (see OAR 461-001-0025).

(C) **Attending medical appointments or services.**

(D) ***Rehabilitative activities* (see OAR 461-001-0025).**

(3) The following activities will be available but will not include *support services* payments:

- (a) Domestic Violence Intervention.
- (b) Family Stability (see OAR 461-001-0000), **unless subsection (2)(g) applies.**
- (c) Family Support & Connection.
- (d) Post-TANF.
- (e) *Program entry* (see OAR 461-001-0025).
- (f) Self Initiated Training (see OAR 461-001-0025).
- (g) SSI Application Process.
- (h) Unsubsidized employment (work).

(4) Participation in an *activity* is based on whether an individual is Job Ready, Near Job Ready, or Not Job Ready.

- (a) Job Ready means the individual has no *barrier* (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:
 - (A) Prior stable work history, either paid or unpaid.
 - (B) Had not voluntarily quit or been dismissed from their *most recent employment* (see OAR 461-135-0070), without *good cause* (see OAR 461-135-0070).
 - (C) Reliable or available transportation.
 - (D) No outstanding legal issues that would impact or prevent employment.
 - (E) Access to reliable child care within *support services* limits, or does not need help to pay for child care, or does not need child care.
- (b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

- (A) Limited or no work history, either paid or unpaid.
 - (B) Reliable or available transportation.
 - (C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.
 - (D) Access to reliable child care within *support services* limits, or does not need help to pay for child care, or does not need child care.
- (c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:
- (A) Lack of stable housing that is preventing participation in an activity or employment.
 - (B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.
 - (C) Medical issues that prevent participation in an activity or employment.
 - (D) Outstanding legal issues that would impact or prevent employment.
 - (E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.
- (5) In approving JOBS program *support services* payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.
- (6) Payments for *support services* are only provided when:
- (a) Necessary to participate in activities in a signed *case plan*;
 - (b) Authorized in advance; and
 - (c) All other provisions of this rule are met.
- (7) Payments for *support services* are subject to the following limitations:
- (a) Job Ready individuals may be eligible for child care, transportation, or other *support services* **costs related to a job offer**.

- (b) Near Job Ready individuals may be eligible for child care, transportation, or other *support services* **costs related to a job offer.**
- (c) Not Job Ready individuals are not eligible for *support services*, **unless subsection (2)(g) of this rule applies.**
- (d) A *teen parent* (see OAR 461-001-0000) may be eligible for child care, transportation, or other *support services*, for participation in a *basic education* (see OAR 461-001-0025) *component* (see OAR 461-001-0025).
- ~~(e) Except as permitted in subsection (f) of this section, there is a~~
 - ~~(A) \$500 maximum per filing group, per month, for a filing group who resides in the District 2, 4, 5, 9, 10, 15, or 16 service area.~~
 - ~~(B) \$425 maximum per filing group, per month, for a filing group who resides in the District 1, 3, 6, 7, or 8 service area.~~
 - ~~(C) \$350 maximum per filing group, per month, for a filing group who resides in the District 11, 12, 13, or 14 service area.~~
- ~~(f) Within the limits of available funds and only with supervisory approval, *support services* may exceed the monthly limits in subsection (e) of this section for individuals~~
 - ~~(A) Who meet sections (1) and (4) of this rule;~~
 - ~~(B) Who are determined to be highly likely to obtain employment based on demonstrated JOBS participation history or through agency assessment forms;~~
 - ~~(C) Who could not otherwise obtain employment or participate in gaining work site experience;~~
 - ~~(D) When lower cost alternatives do not exist; and~~
 - ~~(E) If the number of months the filing group receives *support services* in excess of the monthly limits in subsection (e) of this section is limited to four months per 12-month period.~~
- (ge) **Child Care Child Care.** Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable a single-parent Job Ready or Near Job Ready individual or single *teen parent* to participate in an approved JOBS program *activity* specified in the individual's *case plan*, **or a Not Job Ready**

individual approved by the district to complete a family stability activity. If authorized, payment for child care will be ~~made for the lesser of:~~

- (A) ~~The maximum monthly *support services* amount based on District service area under this section of the rule. Authorized child care is subject to and counted towards the maximum monthly *support services* amount per filing group.~~
- (~~B~~) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when children are in care less than 158 hours per month and the individual is a *teen parent* using on-site care while attending education activities.
- (~~C~~B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program *activity*.
- (~~h~~f) ~~Transportation~~ **Transportation**. The Department may provide payments for a Job Ready or Near Job Ready individual or *teen parent* for transportation costs incurred in travel to and from an approved JOBS program *activity* **or a Not Job Ready individual approved by the district to complete a family stability activity**. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:
 - (A) Payment for transportation is subject to and counted towards the maximum monthly *support services* amount per family.
 - (B) Payment for public transportation is a priority over payment for a privately owned vehicle.
 - (C) Payment for fuel costs for a privately-owned vehicle is **only** provided if the ~~Job Ready or Near Job Ready individual, *teen parent*, or the client or~~ individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:
 - (i) No public transportation is available or the ~~Job Ready or Near Job Ready individual or *teen parent*~~ **client** is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.
 - (ii) Public transportation is available but is more costly than the cost of fuel.
- (~~i~~g) Housing and Utilities. Payments for housing and utilities are not allowed.

- (jh) Other Payments. The Department may provide payments to individuals for costs directly related to obtaining unsubsidized employment which are subject to and counted towards the maximum monthly *support services* amount per filing group.
- (8) The Department may require an individual to provide verification of a need for, or costs associated with, *support services* prior to approval and issuance of payment if verification is reasonably available.
- (9) The Department may reduce, close, or deny in whole or in part an individual's request for a *support services* payment in the following circumstances:
- (a) The individual is disqualified for failing to comply with a *case plan*, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her *case plan*.
 - (b) The purpose for the payment is not related to the individual's *case plan*.
 - (c) The individual disagrees with a *support services* payment offered or made by the Department as outlined in the individual's *case plan*.
 - (d) The individual is not determined to be a Job Ready or Near Job Ready individual or *teen parent*.
- (10) An individual who is not a *teen parent* (see OAR 461-001-0000) and who is otherwise exempt from JOBS requirements as a one-parent household with a *dependent child* (see OAR 461-001-0000) under two years of age may be a *volunteer* (see OAR 461-130-0305) and participate, subject to the availability of services.
- (11) An individual who has gone over-income for the TANF program due to earnings and needs to increase *activity* hours to meet Post-TANF *federally required participation rates* (see OAR 461-001-0025) may be a *volunteer* and participate.
- (12) **The amendments to this rule adopted on April 6, 2012 are retroactive to March 14, 2012.**

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.014, 412.049, 412.124, 2011 Or. Laws 604
Stats. Implemented: ORS 411.060, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124, 2011 Or. Laws 604