



Oregon

Tina Kotek, Governor



Oregon Department of
**Early Learning
and Care**
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Oregon.gov/delc

Greetings Rulemaking Advisory Committee Participants,

Thank you for sharing your time and expertise with us through the Employment Related Day Care Rules Advisory Committee (RAC). You will be providing input on the proposed changes to the administrative rules pertaining to Employment Related Day Care. There will be one meeting which will be held via Zoom.

Meeting Preparation:

To support a productive conversation, we kindly ask that you review the draft rule language prior to the meeting. Your perspective and insights are important, and taking time to read through the materials in advance will help ensure thoughtful discussion during our time together.

Compensation:

Committee members will receive **\$50 per meeting stipend in recognition of the time and thoughtful input you are providing.** Additional information about compensation will be shared at the RAC meeting.

Dates and time for the RAC:

April 15, 2026, 6-7pm

Join ZoomGov Meeting:

https://www.zoomgov.com/webinar/register/WN_xHyNwTI7Rm29IP1DrL3GEQ

Agenda

Topic	Time
1. Welcome and Attendance	5 mins
2. Introductions	5 mins
3. Review Group Norms	5 mins
4. Overview of OAR Updates Effective June 1, 2026: <ul style="list-style-type: none"> 414-175-0002: Definitions 414-175-0010: Waitlist for ERDC 414-175-0011; Certification Period 414-175-0023; Requirement to Establish a Child Care Need and Hours Authorizations 	40 mins

The Mission of the Department of Early Learning and Care fosters coordinated, culturally appropriate, and family-centered services that recognize and respect the strengths and needs of all children, families, and early learning and care professionals. Our Vision is that all children, families, early care and education professionals, and communities are supported and empowered to thrive.



<ul style="list-style-type: none"> • 414-175-0024; Verification Requirements • 414-175-0035; Specific Financial Requirements • 414-175-0051; Requirement To Make Copay or Satisfactory Arrangements • 414-175-0075; Child Care Provider Eligibility Standards, Payments Rates, Payment Limits, and Payable Hours • 414-175-0077; COVID-19 Provider Payments (REPEAL) <p style="text-align: center;">414-175-0085; Direct Provider Payments</p>	
<p>5. Closing Comments</p> <ul style="list-style-type: none"> • Reimbursement Process Reminder • Public Comment and Hearing Reminder 	5 mins

RAC Committee Roster

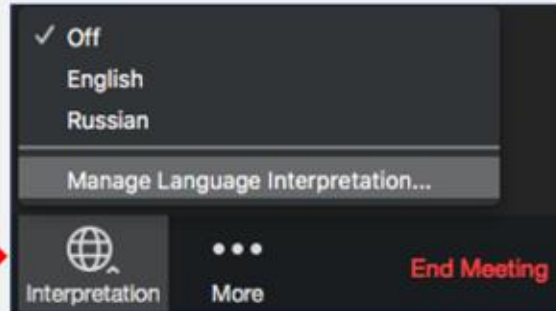
Name	Organization/Affiliation	Region (City or County)
Lisa Duffield	Union	Beaverton
Anneliese Sheahan	Union	Gladstone
Natasha Ilys	211 Info	Portland
April Paul	Child Care Resource and Referral	Redmond
Kristina Ries	Culturally Specific/Advocate	Portland
Ivy Major-McDowall	Advocate	Portland
Hang Jones	Culturally Specific/Advocate	Portland
Jorge Martinez	Parents/Family	Beaverton
Alicia Benavidez	Parents/Family	Gold Beach
Rachel Lamet	Child Care Provider	Salem
Carrie Graber	Child Care Provider	Eugene
Jenny McDonald	Child Care Provider	Klamath Falls
Alexia Nice	Child Care Provider	La Grande
DyLynn Robertson	Child Care Provider	Portland
Anne-Marie Holloway	Child Care Provider	Stayton

If you have questions, please reach out to Jennifer Heras, jennifer.j.heras@delc.oregon.gov

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Interpretation Available:

- Click the globe icon to select your language. You can find it in the bottom right corner.
- Presione el icono del mundo para seleccionar su idioma. Lo puede encontrar en la esquina derecha de su pantalla.
- Чтобы выбрать нужный язык, нажмите на значок с изображением глобуса в правом нижнем углу экрана.



Accessing Zoom from a phone App: Rename your participant icon with your first and last name.

On the Zoom in-meeting controls, tap Participants
Tap your name, then tap rename

Other controls:

*6 Mute/Unmute

*9 Raise/Lower hands

Rename your participant icon with your first and last name. You can do that one of **two** ways:

1. Click on the participants icon on the bottom of your screen.
2. At the top right, your participant name will appear.
3. Hover over your name and click on the 3 dots to the right and click rename.
4. Right mouse click on the screen to get a short menu. Choose rename.



Oregon Department of
**Early Learning
and Care**

Proposed Rule Changes for Employment Related Day Care (ERDC)

April 2026



Agenda

- Welcome and Attendance
- Review of Group Norms
- Overview of proposed OAR Updates Effective June 1, 2026
- Review of Next Steps and Timeline
- Closing Comments and Thank You



Group Norms

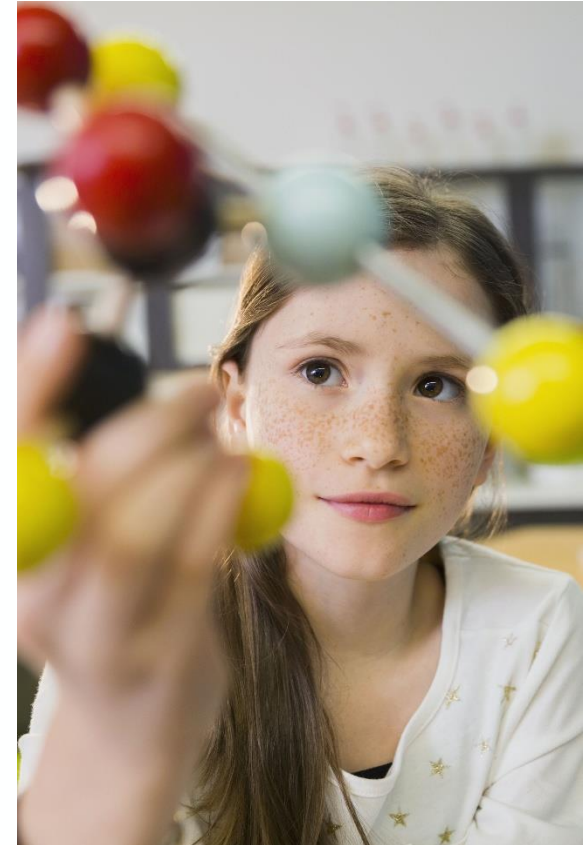
- Bring an equity-driven perspective and approach
- Center children, families, and early learning professionals
- Stay curious and welcome other points of view
- Seek first to understand, then to be understood
- Stay present
- Be respectful with your words
- Be aware of the power and privilege within this group
- Start and stop on time



Summary of Proposed Rule Changes

Effective date of changes: June 1, 2026

- 414-175-0002; Definitions
- 414-175-0010; Waitlist for ERDC
- 414-175-0011; Certification Period
- 414-175-0023; Requirement to Establish a Child Care Need and Hours Authorizations
- 414-175-0024; Verification Requirements
- 414-175-0035; Specific Financial Requirements
- 414-175-0051; Requirement To Make Copay Or Satisfactory Arrangements
- 414-175-0075; Child Care Provider Eligibility Standards, Payments Rates, Payment Limits, and Payable Hours
- 414-175-0077; COVID-19 Provider Payments (REPEAL)
- 414-175-0085; Direct Provider Payments



414-175-0002: Definitions

Purpose/Background

- OAR 414-175-0002 outlines definitions for the ERDC ruleset.

Reason for Change

- Adds definition for "Oregon Early Learning Management System (Oregon ELMS)," DELC's new system for child care provider licensing, enrollment, and billing and payments.

Impacts of Change

- Gets ready for the new system in rules.



414-175-0010: Waitlist for ERDC



Purpose/Background

- OAR 414-175-0010 describes the ERDC waitlist and which families may skip it. Current rule allows either all exemptions or none (turning off the waitlist).

Reason for Change

- Allow DELC to turn each waitlist exemption on or off independently. When a family applies, their information will be reviewed based on the active exemption(s) to decide if they are put on the waitlist.

Impacts of Change

- This language gives DELC the flexibility to pause waitlist bypasses if it becomes necessary due to program budget. DELC has no plans at this time to turn off any bypasses. Pausing waitlist exemptions decreases the number of families receiving benefits. This would keep the program within budget, but fewer families may be served.

414-175-0011: Certification Period

Purpose/Background

- OAR 414-175-0011 outlines how long a family can receive benefits (certification period), when it can be extended, and when benefits can end during the certification period.

Reason for Change

- Clarifies that benefits may end during the certification period if the family has more than \$1,000,000 in resources.

Impacts of Change

- This better aligns rule with federal program requirements and ONE system functionality.



414-175-0023: Requirement to Establish a Child Care Need and Hours Authorization



Purpose/Background

- OAR 414-175-0023 outlines the criteria for determining a family's need for child care and authorized hours. The rule also clarifies when child care costs are covered and how authorized hours are calculated.

Reason for Change

- Clarifies when additional child care hours cannot be approved, when the caretaker requests additional hours because of inconvenient drop off/pick up times or for overnight care when there is no overnight need.

Impacts of Change

- Some families may not be approved for additional child care hours that are not tied to participation in an activity.

414-175-0024: Verification Requirements

Purpose/Background

- OAR 414-175-0024 outlines what information families must provide to receive ERDC, including for Authorized Medical Leave.

Reason for Change

- Adds that employer information (in writing, or verbal) can verify medical leave.

Impacts of Change

- This makes it easier for families to get child care while on medical leave from employment.



414-175-0035: Specific Financial Requirements



Purpose/Background

- OAR 414-175-0035 outlines certain types of income are counted.

Reason for Change

- Adds Military Transitional compensation and counts it as unearned income. This is a new program for families of military members involved in dependent abuse.
- Clarifies that any payments from the Youth Experiencing Homelessness Program (YEHP) are not considered countable for the ERDC program.

Impacts of Change

- Families receiving Military Transitional compensation will have the income counted on their case.
- Families receiving YEHP payments will not have this income counted on their ERDC case.

414-175-0051: Requirement to Make Copay or Satisfactory Arrangements

Purpose/Background

- OAR 414-175-0051 outlines family responsibility for paying copays to provider

Reason for Change

- Changes 'billing form' to 'billing' to include both paper and electronic systems, including the new Oregon ELMS.

Impacts of Change

- Supports system update, no impact on families or providers.



414-175-0075: Child Care Provider Eligibility Standards, Payment Rates, Payment Limits, and Payable Hours

Purpose/Background

- OAR 414-175-0075 outlines information about eligibility, rates, and number of hours of care.

Reason for Change

- Changes 'billing form' to 'billing' to include both paper and electronic systems, including the new Oregon ELMS.

Impacts of Change

- Supports system update, no impact on families or providers.



414-175-0077: Covid-19 Provider Payments(REPEAL)



Purpose/Background

- OAR 414-175-0077 outlines rules for special provider payments during COVID-19.

Reason for Change

- Repealed since payments in this rule are not being made anymore.

Impacts of Change

- No impact for families or providers.

414-175-0085: Direct Provider Payments

Purpose/Background

- OAR 414-175-0085 outlines how ERDC pays child care providers.

Reason for Change

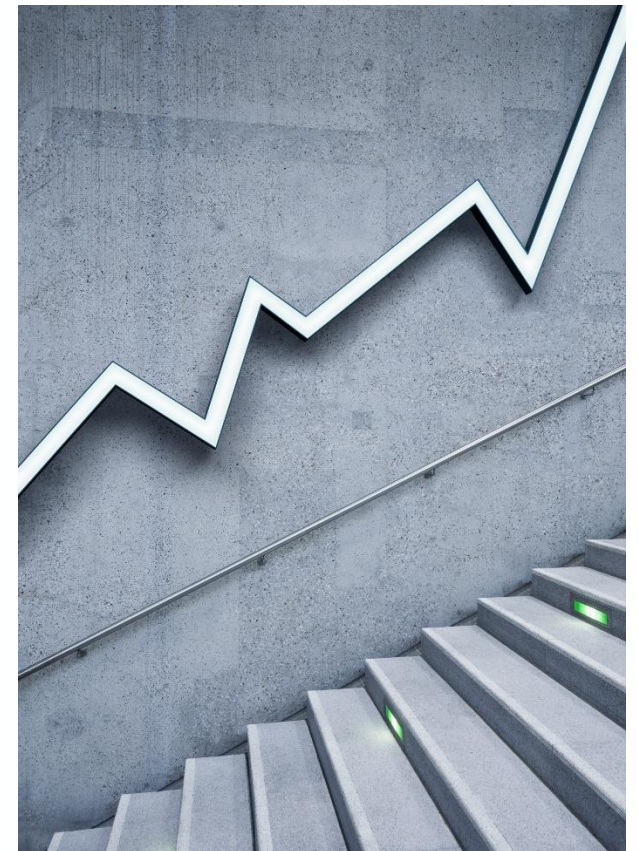
- Allows providers to charge ERDC families more than private pay families. Oregon ELMS will pay the ERDC maximum rate even if their usual rate is lower.
- Removes old language saying that non-certified center providers would be paid after care is provided.
- Clarifies that ERDC payments end if a child is absent for one full calendar month or if the connection to the provider ends before the next billing cycle.
- Allows payments to go to the owner of a Certified Family facilities if the provider requests it (current practice).

Impacts of Change

- Makes payment processes easier and matches current practice.

Next Steps and Timeline

ERDC RAC Meeting ★	April 15, 2026
ERDC Rules Presented to Early Learning Council (ELC) for Review	April 22, 2026
Public Hearing: ERDC Rules	April 29, 2026 (5:00 PM – 6:00 PM)
Public Comment Period Ends	May 8, 2026 (5:00 PM)
ERDC Rules Presented to Early Learning Council (ELC) for Vote	May 27, 2026
Rule Changes Effective Date <i>(if passed by ELC)</i>	June 1, 2026



ERDC June 2026 Bundle

414-175-0002: Definitions
414-175-0010: Waitlist for ERDC
414-175-0011; Certification Period
414-175-0023; Requirement to Establish a Child Care Need and Hours Authorizations
414-175-0024; Verification Requirements
414-175-0035; Specific Financial Requirements
414-175-0051; Requirement To Make Copay Or Satisfactory Arrangements
414-175-0075; Child Care Provider Eligibility Standards, Payments Rates, Payment Limits, and Payable Hours
414-175-0077; COVID-19 Provider Payments (REPEAL)
414-175-0085; Direct Provider Payments

ERDC Rule Changes and Repeals

Proposed Language 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 in assisting the applicant with their application, renewal of eligibility, and other ongoing 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 a 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 a 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) "Decision notice" means a written notice of a decision by the Department regarding a caretaker's eligibility for benefits in a program.

(15) "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.

(16) "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 (45) 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.

(17) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

- (18) "ERDC" or "Employment Related Day Care" means Oregon's primary child care assistance program for eligible families under this rule set.
- (19) "Equity value" means fair market value minus encumbrances.
- (20) "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.
- (21) "Facility" means an individual, group of individuals, or entity that is caring for a child younger than 13 years of age or a child 18 or younger with special needs.
- (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 that is leased or rented to a party outside the financial group and generates income from that lease or rental agreement. This refers to the land itself as a source of income and does not include farmland used in the operation of a farming business that is owned or managed by a member of the financial group.
 - (c) 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, 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 a caretaker receiving Department benefits;

(b) Is not a member of the 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.

[\(37\) "Oregon ELMS" or "Oregon Early Learning Management System" means the Department's online system used to manage child care provider licensing, enrollment, billing and payments processes.](#)

~~(3738)~~ "Parent" means the biological or legal parent of a 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.

(3839) "Payment month" means the calendar month for which benefits are issued.

(3940) "Periodic income" means income received on a regular basis less often than monthly.

(4041) "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.

(4142) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".

(4243) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(4344) "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.

(4445) "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.

(4546) "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.

(4647) "Spouse" means an individual who is legally married to another individual.

(4748) "Stable income" means income that is the same amount each time it is received.

(4849) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(4950) "Timely continuing benefit decision notice" means a decision notice that informs the caretaker or the authorized representative of the filing group of the right to continued benefits.

(5051) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(5452) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for ~~family daychild~~ daychild-care providers who serve snacks and meals to children in their care.

(5253) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Proposed Language 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 Department may activate or deactivate one or more of the exemption criteria in Section 3 of this rule. At minimum, the Department must allow a 30-day notice on the Department website when deactivating an exemption criteria.

~~(32) 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 the ERDC filing group meets the income limits in OAR 414-

175-0050 and meets at least one active 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, 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.

(43) 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.

(54) 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.

(65) 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.

(76) 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.

(87) The Department may send periodic notices to individuals on the Child Care Waitlist to ensure that the list contains individuals who still want to receive ERDC benefits.

(a) The Department shall allow at least 30 days for individuals to respond to the notice.

(b) The Department may remove individuals from the Child Care Waitlist who indicate they no longer want ERDC benefits or who do not respond to the notice by the deadline.

Proposed Language **414-175-0011; Certification Period**

(1) The length of the certification period may not be less than 12 months. In the following situations the certification period may be extended beyond the certification end date:

(a) Caretakers in authorized work search and medical leave are limited to no more than three additional months.

(b) Caretakers on military transition are limited to no more than

six additional months.

(c) Caretakers who have entered into a contracted slot with Head Start, Early Head Start or the Early Head Start Child Care Partnership program are limited to no more than eleven additional months.

(d) Caretakers who are Categorically Eligible through a determination of TANF eligibility may have their ERDC benefits extended through the end of the TANF benefit period.

(2) ERDC benefits may be terminated mid-certification only if one of the following occur:

(a) There is no longer an eligible child or no longer an eligible caretaker in the need group pursuant to OAR 414-175-0020;

(b) The filing group no longer meets the resource limit or ~~exit income limits~~ eligibility standards in accordance with OAR 414-175-0050(1)(b)(B), except for filing groups categorically eligible under Expanded Child Welfare (EXP CW);

(c) Benefits were determined in error;

(d) A Caretaker or Authorized Representative in the Need Group requests to terminate their ERDC benefits; or

(e) No members of the filing group reside in Oregon.

Proposed Language **414-175-0023; Requirement to Establish a Child Care Need and Hours Authorizations**

(1) The following is required to establish a child care need:

(a) Except for as described in (2) below, every caretaker in the filing group must meet one of the following requirements:

(A) Receive income from employment. This includes self-employment and employment through a work study program.

(B) Participate in education hours, either through:

(i) Coursework that leads to a certificate, degree, or job-related knowledge or skills

attainment at an institution of higher education approved to receive federal financial aid; or

(ii) Participation in a high school education or general equivalency diploma (GED) program.

To be eligible under this subparagraph the caretaker must be twenty (20) years of age or younger.

(C) Be on medical leave from current employment or education.

(b) Except for as described in (2) below, if there are multiple caretakers required to be in the filing group, and one of them does not meet any of the criteria in section (1)(a) above, that caretaker is considered available to provide child care, making the filing group ineligible, except in the following situations:

(A) The adult is physically or mentally unable to provide adequate child care. This must be verified pursuant to 414-175-0024.

(B) Confirmation is received from the Office of Child Welfare Programs that supervised contact is required between the child and the adult.

(2) If a child or caretaker is Categorically Eligible for ERDC benefits in accordance with OAR 414-175-0025, sections (1), (3), and (4) of this rule do not apply and the copay is waived.

(3) When child care is covered and when copays are waived or reduced

(a) The cost of dependent child care may be paid for by the Department (is covered) when dependent child care is necessary for the caretaker to perform the caretaker's job duties or complete educational hours, including study time.

(b) The cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children, unless a child is not attending in-person schooling and is instead participating in distance learning in the following circumstances:

(A) Due to medical concerns with the child, a member of the child's household, or a family member with whom the child has frequent contact; or

(B) Due to mental health concerns specific to the child.

(c) Child care is not covered if the nature of the work of the caretaker does not make it necessary for a person other than the caretaker to provide the care. Child care is not covered during a period of time when:

(A) The nature of the work allows the caretaker to provide the care without significantly affecting the work;

(B) The caretaker provides child care in a residence, unless the provider is a certified family home under OAR 414-350-0000 to 414-350-0400 or certified center under OAR 414-305-0100 to 414-305-1620.

(C) The caretaker works for a provider of child care in a residence, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400 or is a certified center under OAR 414-305-0100 to 414-305-1620.

(d) The cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period with no change to the authorized child care hours or copay amount subject to the following provisions:

(A) When a reduction in work hours occurs, the copay may be adjusted.

(B) When a job loss occurs:

(i) When a caretaker has a permanent job loss from all employment the copay is waived for:

(I) The remainder of the certification period if there are three or more months remaining in the period; or

(II) For up to three months for instances where job loss occurred in months 10 through 12 of the certification period.

(ii) The waiver ends if the caretaker becomes employed.

(iii) Any reason a caretaker is experiencing job loss is a “good cause” reason and qualifies a caretaker for authorized work search.

(C) For military transition:

(i) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.

(ii) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before the end of the six month period if the caretaker returns to active duty.

(D) Under this section child care may be used for work, work search, education hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.

(e) In the ERDC program the cost of dependent child care may be paid for by the Department (is covered) at the beginning of the certification period or may continue to be paid for by the Department (is covered) with no change to the authorized child care hours if the caretaker is on medical leave from current employment or education during the certification period. Medical leave includes a Caretaker on leave due to their own condition or to care for a child in the Filing Group.

(A) When a Caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 414-175-0024, except that parental leave may be authorized for up to three calendar months without medical documentation.

(B) When a caretaker is on medical leave during the certification period and meets section (1) of this rule, the copay is waived starting the month after medical leave begins. The copay waiver:

(i) May not go beyond the last day of the certification period, subject to OAR 414-175-0011.

(ii) Ends at the end of the medical leave period, unless the caretaker is still on medical leave or requires extended parental leave and new verification is received prior to the end of the month noted on the original documentation, or for parental leave without medical documentation, prior to the end of third calendar month.

(f) When a caretaker is on medical leave at the time of initial application or certification, and meets subsection (1) of this rule, the copay may be waived. The copay waiver:

(A) May not go beyond the last day of the certification period, subject to OAR 414-175-0011.

(B) Ends at the end of the medical leave period, unless the caretaker is still on medical leave or requires extended parental leave and new verification is received prior to the end of the month noted on the original documentation, or for parental leave without medical documentation, prior to the end of the third calendar month.

(4) The cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:

(a) The child is a member of the benefit group and is in the care, control, and custody of an individual in the group.

(b) The provider of child care is not in the filing group.

(c) The provider of child care is not a parent of a child in the filing group.

(5) Child Care Hours Allowances

(a) Unless otherwise specified below, child care hours are determined as follows:

(A) When the allowable child care need totals 20 or fewer weekly hours of dependent child care, 20 weekly hours are allowed.

(B) When the allowable child care need totals more than 20 but no more than 40 weekly hours of dependent child care, 40 weekly hours are allowed.

(C) When the allowable child care need totals more than 40 weekly hours, up to 75 weekly hours are allowed.

(D) In addition to the weekly hours allowed in paragraphs (5)(a)(A) through (eC), above, study hours will be allowed as follows:

(i) 5 weekly hours for a caretaker who spends less than 12 hours a week in education settings.

(ii) 10 weekly hours for a caretaker who spends 12 or more hours a week in education settings.

(b) For a need group that has been determined Categorically Eligible for ERDC or under Expanded Child Welfare (EXP CW) in accordance with OAR 414-175-0025, child care hours are determined as follows:

(A) 20 weekly hours of child care are allowed.

(B) A caretaker may request additional weekly child care hours. The caretaker must state a reason for needing additional weekly child care hours. ~~Any reason for needing A~~ additional weekly child care hours is sufficient to allow a higher amount of weekly hours in may be authorized in accordance with subsections (5)(a)(B) and (C) above, except ~~that the reason cannot be for the following:~~

(i) To secure access to a child care facility requiring a child to be in care for more than 25 weekly hours;

(ii) When a caretaker reports the additional hours are needed due to inconvenient drop off or pick up times; or

(iii) To secure overnight care when the caretaker is not participating in overnight activities.

(c) In addition to the hours allowance provided in (5)(a) or (b) above, a need group receives 25% of the weekly hours allowance each week for the purposes of travel or commuting.

(d) Monthly hours allowances are calculated by multiplying the need group's weekly hours allowance by 4.3.

Proposed Language **414-175-0024; Verification 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) Acceptable forms of medical documentation include:
 - (a) Medical evaluations from licensed physicians, psychiatrists, osteopaths, nurse practitioners, physician assistants, and ophthalmologists.
 - (b) Vision assessments from ophthalmologists and licensed optometrists.
 - (c) Mental health evaluations from psychiatrists, licensed or certified psychologists, and psychiatric mental health nurse practitioners.
 - (d) 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 following information must be verified at initial application, recertification, and whenever eligibility for benefits becomes questionable, except as outlined in sections 4, 5 and 6.
 - (a) Countable income
 - (b) Special Needs Rate such that a request for the higher rate must be received and the disability must be verified by one of the following:
 - (A) A physician, nurse practitioner, clinical social worker, or any additional sources in section 2 of this rule.
 - (B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.
 - (C) Eligibility for SSI.
 - (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 must be verified by one of the following:
- (A) A clinical social worker or any additional sources in section 2 of this rule.
 - (B) A child's eligibility for SSI
 - (C) A child being under court supervision
 - (D) A child's eligibility for foster care payments
 - (E) Other unique circumstances where the child's safety or the caretaker's ability to work or participate in authorized activities will be significantly compromised if child care is not approved: self-attestation is allowed.
- (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 [or verbal or written verification from the caretaker's employer confirming that the caretaker is on medical leave from employment](#) 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: electronic verification or documentation is required.
- (5) For filing groups categorically eligible for ERDC, self-attestation is allowed except as outlined in subsection (3)(j)(B).
- (6) For filing groups categorically eligible under Expanded Child Welfare (EXP CW), self-attestation is allowed for child care need, hours and income.

Proposed Language **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 judgment funds to the Turtle Mountain Band of Chippewa, Arizona.
- (R) Public Law 97-408: Payments on judgment funds to the Blackfeet Tribe, Gros Ventre (Aaniiih) 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'wáma, 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 palúspam, 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 (Wyandotee Nation, see emboldened word in attachment, or Wanda; consisting of Tionontati, Attignawantan, and Wenrohronon (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.

(c) Military Transitional Compensation income paid to the spouse or child of a military member who is separated from service due to a dependent abuse offense is counted as unearned income.

(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 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 (YEHP): Any payment received through the Youth Experiencing Homelessness Program administered by the Oregon Department of Human Services is excluded when determining countable assets.~~

~~(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.~~

Proposed Language **414-175-0051 Requirement to Make Copay or Satisfactory Arrangements**

(1) The Need Group must use a child care provider who meets the requirements in OAR 414-175-0080 and 414-175-0085.

(2) The caretaker is responsible for paying the copayment to the primary provider of child care unless the Child Care Billing ~~form~~ was sent to the provider showing no copayment.

(3) If the caretaker has only one provider during a month, that provider is the primary provider. If the caretaker uses more than one provider, the caretaker must designate one as the primary provider. Notwithstanding any designation by the caretaker, the Department considers a provider having the copayment amount (not to exceed the caretaker's established copayment amount) deducted from its valid billing statement the primary provider for that period.

(4) If the copayment exceeds the amount billed by the primary provider, the Department may treat a different provider as the primary provider or split the copayment among the providers who bill for care.

(5) The copayment amount due from the caretaker to the provider is the lesser of:

(a) The copayment amount determined by the Department based on family size and income.

(b) The total amount allowed by the Department on a provider claim.

(6) A provider must notify the Department of an overdue copayment within 60 days after the Department issues payment for the month at issue. A caretaker who fails to pay a copayment to or to make satisfactory arrangements with the primary provider will be ineligible for ERDC benefits upon recertification, except for families categorically eligible for ERDC. A copayment is considered paid under any of the following circumstances:

- (a) On the first day of the month in which the caretaker makes the copayment or makes satisfactory arrangements with the provider.
- (b) On the first day of the month after three years have lapsed from the date the caretaker failed to make the copayment.
- (c) On the first day of the month in which the caretaker provides verification that the copayment debt was discharged by a bankruptcy filing.

(7) The Department will make the payment to a provider if a Child Care Billing form is mailed to the provider prior to the notification described in section (6) of this rule.

Proposed Language **414-175-0075; Child Care Provider Eligibility Standards, Payments Rates, Payment Limits, and Payable Hours**

(1) The following definitions apply to the rules governing child care rates:

- (a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.
- (b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.
- (c) Preschool: A child aged 3 years to 6 years.
- (d) School: A child aged 6 years or older.
- (e) Special Needs Rate (SNR) : A child who meets the age requirement of the program and who requires a level of care over and above what is typically expected for their age due to a physical, behavioral, or mental disability. The disability must be verified in accordance with 414-175-0024.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

- (a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.
- (b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.
- (c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Child Care Licensing Division.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Child Care Licensing Division as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Licensing Division Certification rules.

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (f)(i) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.

(h) The Certified Center Rate applies to child care provided in a certified center, a certified Outdoor Nature Based program or an Alternative Pathway program that is certified by the Child Care Licensing Division.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the caretaker or child, the Department will not pay for care at a part-time monthly or a full-time monthly rate to more than one provider

for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for absent days each month the child is absent. Absent days can be billed if:

(A) It is the provider's policy to bill all families for absent days; and

(B) The child was scheduled to be in care, the provider bills for the amount of time the child was scheduled to be in care, and the child has not been absent for a calendar month.

(g) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS), or SPARK program, subject to all of the following provisions.

(A) The incentive payment is in addition to the Department maximum rate.

(B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).

(C) Providers who are contracted for child care services through the ERDC program are not eligible to receive incentive payments, with the exception of Early Head Start providers.

(D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.

(E) The incentive payment amount is based on the provider's star QRIS rating as follows:

(i) Star Rating.....Amount

(ii) 3.....\$54

(iii) 4.....\$72

(iv) 5.....\$90

(h) Child care providers eligible for the licensed rate may receive payment from the Department for registration and other fees if they are required by the facility for a child to begin or continue care and the fees are also required of the general public. Fees related to penalties, fines, charges exceeding approved ERDC hours or rates (see section (4) of this rule), or advance payment for cost of care are not eligible for payment.

(A) Child care providers are eligible to receive an additional payment from the Department of 9% of the payment issued for a billing ~~form~~ when all the following are met:

(i) A home-based provider's billing ~~form~~ was processed more than 4 business days after the completed billing ~~form~~ was received by the Department or a center-based provider's billing ~~form~~ was processed more than 7 business days after the completed billing ~~form~~ was received by the Department,

(ii) The provider initiated the request for the additional payment within 30 calendar days of the payment being processed,

(B) Providers request the additional payment using the Department's request process, and

(C) The payment was processed outside the timeframe indicated in subparagraph (A) of this paragraph (i) under circumstances other than exceptional circumstances. "Exceptional

circumstances” means circumstances beyond the reasonable control of the Department including:

- (i) State declared natural disaster,
 - (ii) System outages or failure that prevents payment issuance, or
 - (iii) A cause that originated outside the Department that the Department could not prevent.
- (4) Effective March 1, 2026, the following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):
- (a) [see attached table]
 - (b) [see attached table]
 - (c) [see attached table]
- (5) OAR 414-175-0050 establishes ERDC allowable child care cost, and the copay calculation, except for child care under a contract between a Head Start agency and the Department, which is covered under OAR 414-175-0105.
- (6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:
- (a) The monthly rate provided in section (4) of this rule.
 - (b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.
- (7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:
- (a) The amount billed by the provider or providers.
 - (b) The monthly rate established in this rule for 215 hours of care.
- (8) The number of payable billed hours of care for a child is limited as follows:
- (a) The total payable hours of care in a month may not exceed the amounts in paragraphs (a)(A) or (B) of this subsection:
 - (A) 125 percent of the number of child care hours authorized under OAR 414-175-0050; or
 - (B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the caretaker meets the criteria for extra hours under section (10) of this rule.
 - (b) For a caretaker who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).
- (9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:
- (a) The amount billed by the provider or providers; or

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the caretaker has special circumstances. For the purposes of this section, a caretaker has special circumstances when it is necessary for the caretaker to obtain child care in excess of 215 hours in a month to perform the requirements of their employment or training required to keep current employment, not including self-employment. This is limited to the following situations:

(a) The caretaker's commute time to and from work or education settings exceeds 25 percent of the total authorized child care hours.

(b) The caretaker has an overnight shift and care is necessary for both shift hours and sleep hours.

(c) Retroactively effective January 1, 2023, multiple caretakers need care for both shift hours and sleep hours when:

(A) There is overlap in the caretakers' reported hours, and

(B) At least one caretaker works an overnight shift.

(d) The caretaker has a split shift and it is not feasible to care for the child between shifts.

(e) The caretaker consistently works, participates in education hours, or both, more than 40 hours per week.

(11) Provider payment rates are informed by a cost estimation model and may include financial incentives as outlined in ORS 329A.500(4)(c)(A)-(G).

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Proposed language **414-175-0085; Direct Provider Payments**

(1) The Department makes payments on behalf of eligible individuals to the providers they select to care for their children. The payments are made directly to the provider unless the provider designates the payments to go directly to they are designated to be paid directly to the owner of a Certified Family facility. To be eligible for payment, a provider must:

(a) ~~Before August 1, 2026,~~ charge individuals receiving ERDC benefits at a rate no higher than the rate charged other customers;

(b) Provide the Department with their social security number (SSN) or IRS identification number; and

(c) Meet the requirements of OAR 414-175-0080.

(2) Payments ~~to a provider of an individual receiving~~ for ERDC benefits are subject to each of the following limitations:

(ba) ~~Effective August 1, 2026, P~~ayment is made for ~~the amount charged to the individual but may not exceed~~ the rate authorized in OAR 414-175-0075.

(eb) No payment will be authorized unless the individual ~~has~~ designated a primary provider.

(ec) No payment will be made for less than one dollar.

(ed) Except as provided otherwise in subsection (fe) of this section, a payment is made only for child care provided on or after the date the designated provider has met the requirements to be listed and paid through the Department.

(fe) A designated child care provider who the Department approves to be listed and paid through the Department may receive payment for child care provided prior to obtaining Department approval if the provider met the other Department requirements and was licensed under OAR 414-205-0000 to 414-205-0170, 414-350-0000 to 414-350-0405, 414-305-0100 to 414-305-1620, or 414-310-0100 to 414-310-0720.

(ef) A caretaker signature is not required on child care billing ~~forms~~.

(hg) ~~A provider caring for an eligible child may receive~~ERDC payment ~~may be made~~ in advance for ~~hours~~ the child is ~~scheduled-enrolled to be~~ in care for the month. ~~Payment will end if:~~

~~(A) the child's connection to a provider in Oregon ELMS is ended prior to the billing being issued; or~~

~~(A)(B) the child has been absent for one full calendar month.~~

(ih) When a provider ~~or owner of a child care site~~ is ineligible to receive payment due to a suspension or IPV:

(A) The Department does not pay any other child care provider for child care at the ineligible ~~provider's individual's~~ site.

(B) The Department does not pay ~~a child care provider for care~~ at another site if the ineligible ~~provider individual~~ is involved in the child care operation unless the Department determines that the reasons the ~~provider individual~~ is ineligible are not relevant to the new site.

~~(3) The Department may issue a payment to an eligible provider during a month for which child care is being provided to meet an unexpected need of the provider related to the care of a covered child. The payment may be made if, without the payment, continued care by the same provider would be jeopardized and the client could not immediately obtain child care from another provider.~~

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(43) Child care providers must submit claims ~~through for child care on~~ the appropriate ~~form/method. This is either the form~~ designated by the Department ~~or submission through~~ ELMS.

~~(a) The provider is responsible to obtain the appropriate payment form from the Department and to return the completed form to the Direct Pay Unit of the Department; or~~

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~~(b) If using the Department tracking system, the provider is responsible to ensure children are checked in and out appropriately and payment requests are submitted through the system~~

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(54) No payment will be made for:

~~(a) a paper~~ claim not received by the Department by the last day of the third month after the form was issued unless the Department determines the provider has good cause for not returning the form timely.

~~(b) An electronic claim if the request is not submitted by the 10th of the month following the month care is provided unless the Department determines the provider has good cause for not submitting the electronic claim timely.~~

(65) Child care billings ~~forms~~ cannot be issued or reissued more than 12 months from the month that care was provided.

Repeal **414-175-0077; COVID-19 Provider Payments**

The Oregon Department of Human Services (ODHS) shall pay for one time supplemental payments as follows:

(1) A provider may only receive one of the payments listed in this subsection.

(a) In the amount of \$2,312.00 to child care providers who, at the time ODHS completed the data pull on November 13, 2020, met the following criteria:

(A) Eligible for payment under OAR 414-175-0080,

(B) Designation of a license exempt standard family or enhanced family provider as identified by a Standard Family Rate provider type or an Enhanced Family Rate provider type, and

(C) Received a payment from the ODHS for child care provided during April, May, June, July, August, September, October, or November 2020.

(b) In the amount of \$2,842.00 to child care providers who, at the time the ODHS completed the data pull on November 13, 2020, met the following criteria:

(A) Met all criteria in paragraph (A)(i) through (iii) of this subsection, and

(B) Have not received an Emergency Child Care grant from the Oregon Department of Education, Early Learning Division or ODHS for either phase one or phase two.

(2) In the amount of \$735.00 to child care providers who, at the time the ODHS completed the data pull on June 30, 2021, met the following criteria:

- ~~(a) — Eligible for payment under OAR 414-175-0080;~~
- ~~(b) — Designation of a license-exempt standard family or enhanced family provider as identified by a Standard Family Rate provider type or an Enhanced Family Rate provider type, and~~
- ~~(c) — Received a payment from ODHS on or after November 13th, 2020, for child care provided during any month from April 2020 through June 2021.~~
- ~~(3) — In the amount of \$1508; funded by Coronavirus Aid, Relief, and Economic Security Act (2020) funds allotted to ODHS in the amount of \$1,740,000; to providers who, at the time ODHS completed the data pull on August 1, 2022, met the following criteria:~~
 - ~~(a) — Eligible for payment under OAR 414-175-0080;~~
 - ~~(b) — Designation of a license-exempt standard family or enhanced family provider as identified by a Standard Family Rate provider type or an Enhanced Family Rate provider types, and~~
 - ~~(c) — Did not receive a stabilization grant payment from the Department of Education, Early Learning Division or ODHS.~~