Oregon
Tina Kotek, Governor

Oregon Department of Early Learning and Care
700 Summer Street NE #350
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Greetings Rulemaking Advisory Committee Participants,

Thank you for sharing your time and expertise with us through the Employment Related Day Care (ERDC) Rules Advisory Committee (RAC). You will be providing input on the proposed changes to the administrative rules pertaining to Employment Related Day Care (ERDC). 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** 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:
Tuesday, October 20, 2026, 6:00 – 7:00 PM

Join ZoomGov Meeting:
- **https://www.zoomgov.com/j/1655767551**
- Meeting ID: 165 576 7551

Participate by phone
- 1-669-254-5252
- Meeting ID: 165 576 7551 #

Agenda

Topic	Time
1. Welcome and Attendance	5 mins
2. Review Group Norms	5 mins
3. Overview of OAR Updates Effective January 1, 2027: • 414-175-0035; Specific Financial Requirements:	40 mins

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• 414-175-0040; Prospective Eligibility and Budgeting • 414-175-0075; Child Care Provider Eligibility Standards Payments Rates, Payment Limits, and Payable Hours • 414-175-0080; Eligibility of Child Care Providers • 414-175-0085; Direct Provider Payments	
4. Closing Comments • Reimbursement Process Reminder • Public Comment and Hearing Reminder	5 mins

RAC Committee Roster

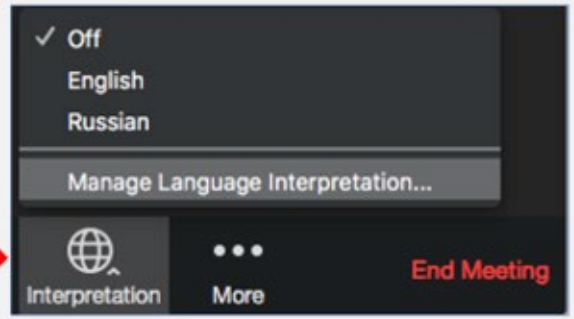
Name	Organization/Affiliation	Region (City or County)
Rachel Lamet	Union	Salem
Autumn David	Union	Salem
Regina Gingery	Early Learning Hubs	Coos Bay
Sevana Ryer	Early Learning Hubs	Coquille
Lori Kaiser	Child Care Resource & Referral	Eugene
Natasha Illys	Child Care Resource & Referral	Portland
April Paul	Child Care Resource & Referral	Redmond
Laura Maravilla	Child Care Resource & Referral	Beaverton
Juan Muros	Community Based Organization/Advocate	Gresham
Kyle Sanchez	Community Based Organization/Advocate	Salem
Mandy Johnson	Child Care Provider	Pleasant Hill
Nadeska Barroso	Child Care Provider	West Linn

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

Encl:

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 selecionar 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.



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.

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

Oregon Department of Early Learning and Care

Employment Related Day Care (ERDC) Rulemaking Advisory Committee

October 20, 2026

Agenda

- Welcome and Attendance
- Review of Group Norms
- Overview of proposed OAR Updates Effective January 1, 2027
- Review of Next Steps and Timeline
- Closing Comments and Thank You



Group Norms

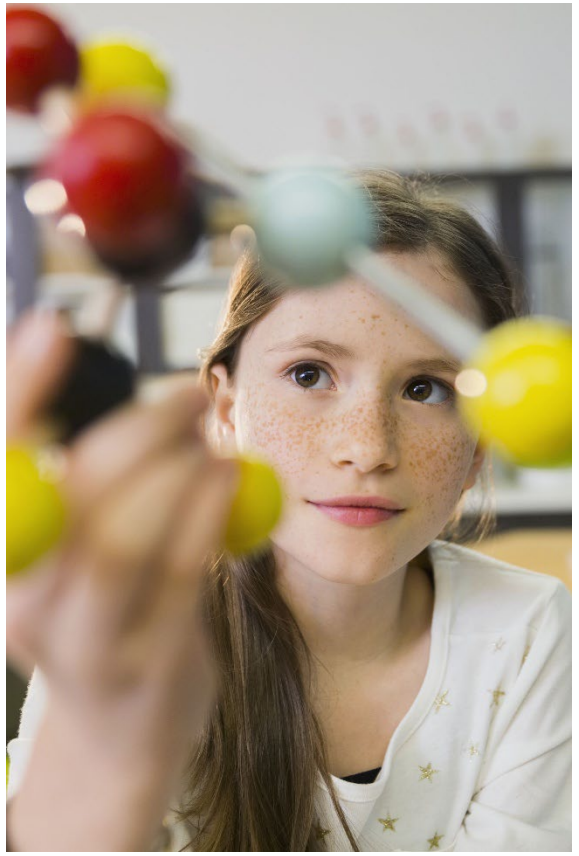
- Bring an equity-driven perspective and approach
- Center children, families, and early learning professionals
- Stay curious and welcome other points of view
- Seek first to understand, then to be understood
- Stay present
- Be respectful with your words
- Be aware of the power and privilege within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



Summary of Proposed Rule Changes

Effective date of changes: January 1, 2027

- 414-175-0035; Specific Financial Requirements
- 414-175-0040; Prospective Eligibility and Budgeting
- 414-175-0075; Child Care Provider Eligibility Standards, Payments Rates, Payment Limits, and Payable Hours
- 414-175-0080; Eligibility of Child Care Providers
- 414-175-0085; Direct Provider Payments



414-175-0035: Specific Financial Requirements

Oregon Department of Early Learning and Care



Purpose/Background

- OAR 414-175-0035 outlines specific income sources and how they are counted for the ERDC ruleset.

Reason for Change

- The rule is being updated to clarify that *earned shelter-in-kind* income is counted as earned income for ERDC.

Impacts of Change

- There is no impact from this change; this rule update aligns with current ONE system functionality.

414-175-0040: Prospective Eligibility and Budgeting

Oregon Department of Early Learning and Care

Purpose/Background

- OAR 414-175-0040 outlines how income is budgeted for the ERDC program.

Reason for Change

- Rule is being updated to remove a few misplaced words which will improve readability.

Impacts of Change

- There are no impacts resulting from this change.



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

Oregon Department of Early Learning and Care

Purpose/Background

- OAR 414-175-0075 outlines the eligibility standards, payment rates, limits and payable hours for families and child care providers.

Reason for Change

- The rule is being updated to include the new child care provider rates effective Jan 1, 2027.

Impacts of Change

- There will be a fiscal impact to DELC; however, these rate increases were bargained for by our provider unions and have already been included in budget projections.



414-175-0080: Eligibility of Child care Providers

Oregon Department of Early Learning and Care

Purpose/Background

- OAR 414-175-0080 sets the eligibility standards for child care providers who participate in the ERDC program. The rule is to ensure that children are cared for in safe environments by qualified providers who meet health, safety, and background requirements.

Reason for Change

- The rule is being updated to remove outdated rule references and clarify the language to improve readability. The update is also adding language requiring providers to contact Every Child Belongs when a young child is facing potential expulsion. Lastly, rule language around controlled substances is being updated to align with CCLD rule language that controlled substances may be on site if they are secured with a child safety device or lock or stored in a locked room.

Impacts of Change

- There is no fiscal impact from these rule changes. There is a positive impact because connecting providers with Every Child Belongs for support can help prevent expulsions, promote continuity of care for children, and reduce disruptions to families' child care arrangements.

414-175-0085: Direct Provider Payments

Oregon Department of Early Learning and Care



Purpose/Background

- OAR 414-175-0085 sets the eligibility standards for child care providers who participate in the ERDC program.

Reason for Change

- The rule is being updated to add language that if a child care provider provides DELC with an IRS identification number, it must be the number for the business. This rule is also being updated to change terminology from “listed” to “approved” when talking about providers being eligible for ERDC subsidy funds.

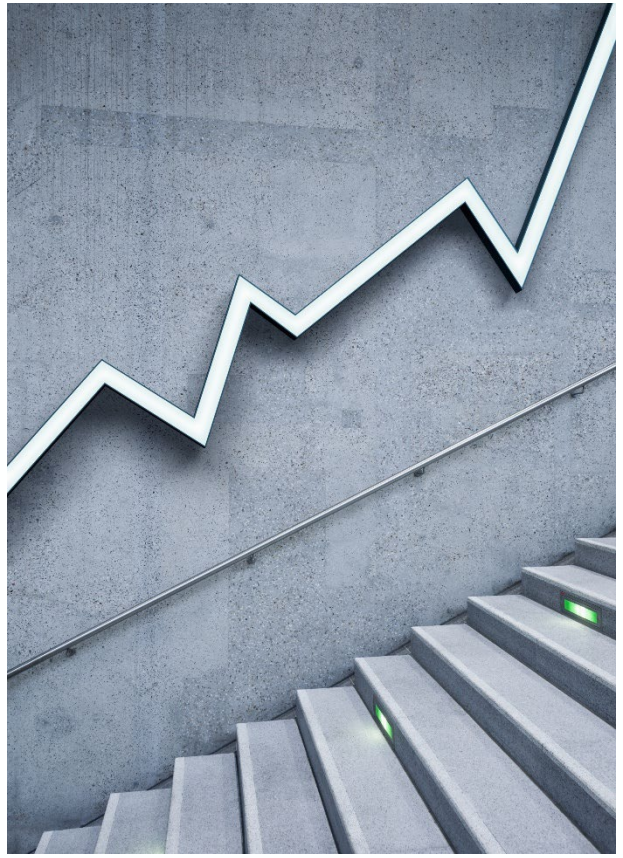
Impacts of Change

- There is no fiscal impact with these rule changes.

Next Steps and Timeline

Oregon Department of Early Learning and Care

ERDC RAC Meeting ★	October 20, 2026
ERDC Rules Presented to Early Learning Council (ELC) for Review	September 23, 2026
Public Hearing: ERDC Rules	October 27, 2026 (5:00 PM – 6:00 PM)
Public Comment Period Ends	October 30, 2026 (5:00 PM)
ERDC Rules Presented to Early Learning Council (ELC) for Vote	December 16, 2026
Rule Changes Effective Date *(if passed by ELC)*	January 1, 2027



ERDC January 2027 Bundle

414-175-0010: Waitlist for ERDC

414-175-0035; Specific Financial Requirements

414-175-0040; Prospective Eligibility and Budgeting

414-175-0075; Child Care Provider Eligibility Standards,

Payments Rates, Payment Limits, and Payable Hours

414-175-0080; Eligibility of Child Care Providers

414-175-0085; Direct Provider Payments

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 ~~S~~section (3) of this rule. At minimum, the Department must allow a 30-day notice on the Department website when deactivating an exemption criteria.

(3) New applicants will be placed on the Child Care Waitlist 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), or ~~t~~Tribal 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.

(4) 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.

(5) ~~Each month,~~ Based on ~~the basis of~~ an estimate of available funds, ~~an appropriate number of~~ the Department may invite individuals from the Child Care Waitlist to apply for ERDC. Invitations from the waitlist ~~are selected~~ may be based on ~~a~~:

(a) The priority populations described in section (3) subsections (a) through (e) of this rule ~~first-in and first-out basis and~~;

(b) The age of children in the filing group; or

(c) Individuals with the lowest active waitlist number. ~~invited to apply for ERDC.~~

(6) 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.

(7) 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.

(8) 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: 414-175-0035

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~~ paragraph (a)(D~~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~~rule.

(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 subsection (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~~ paragraph (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 subsections (d) to (h) of this section ~~rule~~ and in OAR 414-175-0030, payments described in subsection (c) of this section~~rule~~ are not counted as income or resources when determining eligibility for or benefit levels.

(c) This ~~rule~~ section 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 ~~S~~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~~ paragraph (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 Marianna 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 ~~t~~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 sub-subparagraphs are met:

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

(II) The ~~S~~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 ~~t~~Tribal nations are often listed as shown in the public law. The Department has also attempted (in parenthesis) to include the names of sovereign ~~t~~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, Sihasapa 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, Pisquouse, Wenatchsahpam, Klikatat, Klingquit, Kow-was-say-ee, Li-was, Skin-pha, Wish-ham, Shyiks, Ocehchotes, Ka-milt-pha, and Se-ap-Cat)~~,~~ or the Apache Tribe of the Mescalero Reservation (Mescalero Apache Tribe).

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

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

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

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

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

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

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

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

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

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

(S) Public Law 98-64: Payments from judgment funds held in trust by the U.S. 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 Miskwaagamiiwi-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 Zagaakwaandagowininiwag) 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 ~~T~~trust ~~F~~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 Miskwaagamiiwi-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 ~~t~~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 ~~t~~Tribe and not excluded by public law are excluded, including:

(A) Profit share or per capita income from ~~t~~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 ~~t~~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 the 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~~ paragraphs (a)(C~~iii~~), (D~~iv~~) or (F~~vi~~) of section (52), above.

(b) An annuitized retirement plan described in ~~subsection~~ paragraph (a)(~~v~~E) 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 ~~t~~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~~ JOBS Plus income is excluded.

(m) Wages received under the Tribal TANF ~~Jobs~~ 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 ~~G~~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 counted as earned income~~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 subsections (a~~A~~) and (~~B~~b) of this ~~sub~~section ~~(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 ~~sub~~section (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.SC. 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 ~~sub~~section (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 ~~sub~~section (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 subsection (c) of this section ~~(81)~~ when an individual has established a corporation, determine if the individual is self-employed according to subsection (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 expenses 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 subsection (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; and

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

Proposed Language: 414-175-0040

Prospective Eligibility and Budgeting

(1) For prospective eligibility and budgeting:

(a) The budget month and payment month are the same.

(b) The individual's anticipated income, household composition, and other relevant factors are used to determine the individual's eligibility and benefit level. The individual and Department jointly anticipate the individual's income based on the income already received and the income the individual expects to receive.

(c) Prospective budgeting is used for annualized income and prorated educational income.

(d) When prospective budgeting is used and the actual income differs from the amount determined under subsection (1)(b) of this rule:

(A) If the anticipated income exceeds the actual income, an individual is not entitled to a benefit supplement.

(B) If the actual income exceeds the anticipated income, there may be an individual-error overpayment under OAR 414-175-0099 and 461-195-0521.

(2) Income is budgeted so that the anticipated amount is the same for each month.

(3) Income that must be annualized is calculated under section (9) of this rule.

(4) For the initial month, income is budgeted so the anticipated amount is the same for each month, including the initial month. No supplement is issued based on incorrectly anticipated information.

(5) For an ongoing month: For a benefit group, the Department uses prospective eligibility and budgeting. The type of income is determined and calculated under sections (6) through (10) of this rule.

(6) Educational income is assigned to the months it is intended to cover, regardless of when it is received. The income is prorated over these months.

(7) Ongoing stable income in prospective budgeting and eligibility is treated so that the monthly amount is used to anticipate the income of the financial group. The amount of stable income for each month is determined as follows:

(a) If paid once per month, that amount is used.

(b) If paid twice per month or semi-monthly, that amount is converted to a monthly amount by multiplying it by two.

(c) If paid once every other week or biweekly, that amount is converted to a monthly amount by multiplying it by 2.15.

(d) If paid once per week, that amount is converted to a monthly amount by multiplying it by 4.3.

(8) Ongoing variable income is used as follows in prospective budgeting and eligibility so that the anticipated amount is the same for each month, unless otherwise stated in this rule.

(a) For income paid more than once per month, determine an average amount per pay period in accordance with subsections (8)(b) to (8)(d) of this rule. The average amount is then converted to a monthly amount as follows, if paid:

(A) Twice per month, multiply by 2;

(B) Every other week, multiply by 2.15; or

(C) Once per week, multiply by 4.3.

(b) For variable earned income based on an hourly wage when the past is representative, monthly income is determined by calculating an average number of hours per pay period, then these hours are multiplied by the hourly wage and converted to a monthly amount under subsection (8)(a) of this rule.

(c) For variable earned income involving various rates of pay (e.g., overtime, shift differential, tips) when the past is representative, monthly income is determined by calculating the average income per pay period, then the average income is converted to a monthly amount under subsection (8)(a) of this rule.

(d) For variable earned or unearned income when the past is representative and income cannot be calculated under subsections (8)(b) or (8)(c) of this rule, monthly income is determined by averaging the income over:

(A) A representative period of months by totaling the income for those months and dividing by the number of months used; or

(B) A representative number of pay periods and converting to a monthly amount under subsection (8)(a) of this rule.

(e) For variable earned and unearned income when the past is not representative of the income the financial group will receive during the eligibility period, the individual and the Department jointly determine the anticipated income.

(9) Annualizing and Prorating Contracted or Self-Employment Income

(a) Income from self-employment, including contract income while self-employed, is treated in accordance with OAR 414-175-0035(81) unless the income meets the provisions of subsection (8)(b) of this rule.

(b) If past contract income is not representative of future income or when a substantial increase or decrease is expected in countable self-employment income in the next year, costs as allowed under OAR 414-175-0035(81) and anticipated income are used to determine the countable income.

(c) Contract income that does not meet the criteria of self-employment income is treated as follows:

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

(B) Income received on an hourly or piecework basis or monthly over the term of the contract period is not annualized. It is treated as stable ~~income under~~ or variable income.

(d) Contract income that is not the annual income of the financial group and not paid on an hourly or piecework basis is prorated over the period the income is intended to cover.

(10) Periodic income is averaged over the applicable period.

(11) If the budgeting method changes from prospective to retrospective, the Department treats income from a terminated source that was counted prospectively as follows:

(a) If the actual amount received was less than or equal to the anticipated amount, the income is excluded.

(b) If the actual amount received was greater than the anticipated amount, the Department counts the difference between actual and anticipated amounts.

(12) For filing groups eligible under Expanded Child Welfare (EXP-CW) income shall not be considered countable for purposes of this rule.

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~~A) 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 percent~~%~~ of the payment issued for a billing when all the following are met:

(i) A home-based provider's billing was processed more than 4 business days after the completed billing was received by the Department or a center-based provider's billing was processed more than 7 business days after the completed billing 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 (iA) of this paragraph (Ai) 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 MarchJanuary 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 and any required unpaid breaks exceeds 25 percent of the total authorized child care hours for the month.

(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: 414-175-0080

Eligibility of Child Care Providers

(1) The Department must approve a child care provider if information available to the Department provides no basis for denying eligibility unless it is determined that the provider or other subject individual (see OAR ~~125-007-0210, 407-007-0210(12)(a)(K), and~~ 414-061-0030) is not eligible to provide care.

(2) The Department may approve a child care provider who is legally exempt (see section (12) of this rule) as a child care provider for a child ~~(see OAR 461-001-0000)~~ in the provider's household, if all members of the household have an enrollment (see OAR 414-061-0020(18)), conditional enrollment (see OAR 414-061-0020(9)), or limited enrollment (see OAR 414-061-0020(25)(b)) in the Central Background Registry (see OAR 414-061-0000) and all of the following requirements are met:

(a) There is no criminal history consisting of a disqualifying crime listed in 45 CFR 98.43(c).

(b) The household member with the criminal or child abuse and neglect history is a parent ~~(see OAR 461-001-0000)~~ or caretaker ~~relative (see OAR 461-001-0000)~~ of the child needing child care.

(c) The child care is necessary pursuant to OAR 414-175-0023.

(d) The approval for Department payments only applies for the child of the household member~~,~~ or a child for whom the household member is a caretaker.

(3) The Department may approve a child care provider who is legally exempt as a child care provider and will be providing care for a child in the child's household, if the provider has enrollment in the Central Background Registry and the provider does not live in the child's home.

(4) Ineligibility for payment may result from any of the following and begins on the date of occurrence:

(a) A violation of a requirement under section (8) of this rule. When a provider fails to keep daily attendance records as required under subsection (8)(e) of this rule, the "date of occurrence" begins on the day for which there is no required record.

(b) A finding of "denied".

(A) A provider may be "denied" if they are not enrolled in or are suspended from the Central Background Registry, if they have submitted an application for enrollment in the Central Background Registry that has been denied for cause, or if they have been removed for cause from the Central Background Registry by final order of the Child Care Licensing Division (CCLD) and have not been re-enrolled. A subject individual who has been denied enrollment in the Central Background Registry due to a determination of unsuitability shall not be eligible for enrollment in the Central Background Registry for five years from the date of denial.

(B) A subject individual may appeal CCLD's determination not to enroll the subject individual in the Central Background Registry, for ~~an~~ enrollment, conditional enrollment, or limited enrollment as defined in OAR 414-061-0020(25), pursuant to OAR 414-061-0120.

(c) A finding of "failed".

(A) A provider may be "failed" if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in paragraph (d)(A) of this section.

(B) While the provider is in "failed" status:

(i) The Department does not pay any other child care provider for child care at the "failed" provider's site.

(ii) The Department does not pay a child care provider at another site if the "failed" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "failed" status are not relevant to the new site.

(C) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.

(d) A finding of "suspended".

(A) A provider may be "suspended" if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (8) of this rule: (b), (d), (e), (h), (i), (j), (k), (l), (p)(H), (p)(I), (u), (x) or in section (11) of this rule. A provider who has been "suspended" may challenge this status by requesting a contested case hearing.

(B) While the provider is in "suspended" status:

(i) The provider is ineligible for payment for at least six months.

(ii) The Department does not pay any other child care provider for child care at the "suspended" provider's site.

(iii) The Department does not pay a child care provider at another site if the "suspended" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "suspended" status are not relevant to the new site.

(C) A provider with a status of "suspended" may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.

(e) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(5) The provider must submit a completed Child Care Provider Listing Form (Form 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client.

(6) To receive payment or authorization for payment, the provider must comply with at least one of the following subsections:

(a) If the provider is not legally exempt:

(A) Be currently certified or registered with CCLD under OAR414-210-0100 through 414-210-1620, 414-305-0000 to 414-305-1620, 414-310-0100 to 414-310-0720, 414-320-0100 to 414-320-1620, or 414-360-0100 through 414-360-1620 and be in compliance with the applicable rules;

(B) Complete the Department's listing process; and

(C) Be approved by the Department.

(b) If the provider is legally exempt and a legally exempt relative (see section (12) of this rule):

(A) Complete the Central Background Registry enrollment under OAR 414-061-0090;

(B) Complete the Department's listing process; and

(C) Be approved by the Department.

(c) If the provider is legally exempt and not a legally exempt relative for all children in care:

(A) Meet all CCLD Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;

(B) Submit to and pass a site visit at the location where care will be provided;

(C) Complete the Central Background Registry enrollment under OAR 414-061-0090. For center-based care:

(i) At least one individual must be enrolled in the Central Background Registry; and

(ii) All other subject individuals must be enrolled or conditionally enrolled in the Central Background Registry.

(D) Complete the Department's listing process; and

(E) Be approved by the Department.

(d) In the case of a child care facility licensed by a sovereign ~~t~~Tribal nation:

(A) Must receive annual health and safety inspections from the Indian Health Services;

(B) Each individual who may have unsupervised access to a child in care must be enrolled in the Central Background Registry;

(C) Complete the Department's listing process; and

(D) Be approved by the Department.

(7) Each provider and each subject individual must have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(8) Each provider must:

(a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and meet all of the following:

(A) Be enrolled in and not suspended from the Central Background Registry or be in an approved status by the Department;

(B) Have competence, sound judgment, and self-control when working with children; and

(C) Be mentally, physically, and emotionally capable of performing duties related to child care.

(c) Not be in the same ERDC or TANF filing group (see OAR 414-175-0015 ~~and 461-110-0330~~) as the child they are caring for.

(d) N~~and~~ot be a parent or caretaker of the child they are caring for ~~in the provider's household~~ ~~,461-110-0350) as the child cared for the parent~~ caretaker ~~(see OAR 461-001-0000) of a child in the filing group; or~~

(e) Not be a sibling living in the home of the child.

(~~d~~f) Allow the Department to visit or inspect the site of care while child care is provided.

(~~e~~g) Keep and provide daily records as follows:

(A) Attendance records must accurately record the arrival and departure times for each child in care.

(B) Written attendance and billing records for each child receiving child care benefits from the Department must be retained for a minimum of 12 months.

(C) All records of attendance and billing must be provided to the Department upon request.

(D) Records for absent days billed to the Department under OAR 414-175-0075 must record the hours the child was scheduled to be in care and indicate the child was absent.

(f) Be the individual or facility listed as providing the child care.

(g) Only use someone else to supervise a child on a temporary basis if all of the following are met:

(A) The person was included on the most current listing form;

(B) The person is enrolled in the Central Background Registry; and

(C) The provider notified the Direct Pay Unit (DPU).

(h) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(i) Report to DPU within five days of occurrence:

(A) Any arrest, indictment, or conviction of any subject individual or individual described in section (6) of this rule.

(B) Any involvement of any subject individual or individual described in section (6) of this rule with CPS; the Office of Training, Investigations and Safety (OTIS); or any other agencies providing child or adult protective services.

(C) Any change to the provider's name or address including any location where care is provided.

(D) The addition of any subject individual.

(E) Any reason the provider no longer meets the requirements under this rule.

(j) Report suspected child abuse of any child in the provider's care to the child abuse and neglect hotline or a law enforcement agency.

(k) Supervise each child in care at all times. This includes being within sight or sound of all children; being aware of what each child is doing; being near enough to children to respond when needed; and being physically present when kindergarten-age or younger children are playing outside, unless the play area is fully fenced and hazard free.

(l) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (12) of this rule).

(m) Allow the caretaker of a child in the provider's care to have immediate access to the child at all times.

(n) Inform a parent of the need to obtain immunizations for a child and have a completed, up-to-date Oregon shot record called the "Certification of Immunization Status" (CIS) form~~,~~ or a non-medical or medical ~~E~~exemption form, on file for each child in care.

(o) Take reasonable steps to protect a child in the provider's care from the spread of infectious diseases.

(p) Ensure that the home or facility where care is provided meets all of the following standards, except certified Outdoor Nature Based programs are not subject to the standards in paragraphs~~section~~ (8)(p)~~-~~(A), (C), (J) and (K) below:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child

care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The home or facility has water that is safe for drinking and preparing food (see section (15) of this rule).

(C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Any gate or barrier may not pose a risk or hazard to any child in care.

(E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard-free condition.

(G) The home or facility has a telephone in operating condition.

(H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (12) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure:

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(q) Complete and submit a new listing form every two years, or sooner, at the request of the Department, so that the Department may review the provider's eligibility.

(r) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(s) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(t) Place infants to sleep on their backs.

(u) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).

(v) Develop and communicate expulsion and suspension policies to parents and caretakers.~~.~~

(w) Contact Every Child Belongs when a young child (six weeks of age until eligible to be enrolled in kindergarten on or before the first day of the current school year) is facing potential expulsion. Per OAR 414-210-0100(15)

(x~~w~~) Provide care at a location within the state of Oregon.

(y~~x~~) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia must be stored through one of the following methods:

(~~a~~A) Under a child safety device or child safety lock; or

(~~b~~ B) In a locked room.~~may not be on the premises during child care operational hours or anytime child care children are present.~~

(9) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training prior to Department approval.

(10) Legally exempt providers must complete the two-~~-~~part orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if the provider begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(11) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(12) For purposes of these rules:

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

(c) "Legally exempt" means the child care provider is exempt from licensing with the CCLD because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, OAR 414-3~~5~~60-000 to 414-3560-0405, and OAR 414-305-0000 to 414-30~~0~~5-1620.

(d) "Legally exempt relative" means a legally exempt provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any child in care.

(13) Legally exempt providers that are not a legally exempt relative to all children in care must meet all of the requirements in this section:

(a) Before approval by the Department:

(A) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.

(B) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based or classroom training.

(b) After approval by the Department:

(A) Complete six hours of ongoing education in each two-year listing period as provided in this ~~subsection~~paragraph. All trainings must be accepted by the Oregon Center for Career Development (OCCD) and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.

(i) Two of the six hours must fall under the "Human Growth and Development" category; and

(ii) Two of the six hours must cover "Understanding & Guiding Behavior".

(B) Complete a Health and Safety training offered by OCCD annually.

(C) Complete the Child Development training offered by OCCD, as follows:

(i) Providers approved on or after October 1, 2022, must complete the training within 90 days of ODHS approval.

(ii) Providers approved before October 1, 2022, must complete the training by December 31, 2022, to remain approved.

(14) Child care centers or programs that are legally exempt from certification or registration with CCLD, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, must comply with the following minimum staff to children in care ratios:

(a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.

(b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.

(c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum number of children in a group is 20.

(d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.

(e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.

(15) As used in this section, "drinking water faucet or fixture" means any plumbing fixture on the premises used to obtain water for drinking, cooking, preparing infant formula, or preparing food. This section only applies to a provider who is legally exempt and not a legally exempt relative. This section applies to legally exempt providers approved to receive Department subsidy payments and who submit a completed Child Care Provider Listing form for Department-approval. This section does not apply to care provided in the child's home when the legally exempt provider lives somewhere else.

(a) In locations where care is provided, lead testing is required for each drinking water faucet or fixture.

(b) Providers must test each drinking water faucet or fixture at least once every six years from the date of the last test. Providers who have had a drinking water faucet~~s~~ or fixture tested within six years prior to the effective date of this rule will need to submit the results to CCLD.

(c) If a home or facility does not use any of the on-site plumbing fixtures to obtain water for drinking, cooking, preparing infant formula, or preparing food, the provider must:

(A) Submit a written statement to the Department or CCLD identifying the alternative source of water and confirming that the provider does not use any on-site plumbing fixtures for drinking, cooking, preparing infant formula, or preparing food; and

(B) Notify the Department or CCLD in writing if the alternative source of water changes.

(d) All sample collection and testing must be in accordance with the Environmental Protection Agency (EPA)'s 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.

(A) If test results show water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must:

(i) Prevent access to that drinking water faucet or fixture immediately after receiving the test results; and

(ii) Continue to prevent access to that drinking water faucet or fixture until mitigation is completed in accordance with paragraph (B) of this subsection.

(B) Following receipt of test results showing that water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must comply with all of the following sub-paragraphs:

(i) Submit a corrective action plan to the Department or CCLD for approval within 60 days of receiving the test results. The corrective action plan must identify an appropriate mitigation strategy in accordance with Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.

(ii) Implement the mitigation method within 30 days of approval by CCLD.

(C) A provider who fails to submit a corrective action or a mitigation method is no longer eligible to receive child care subsidy payments.

(e) The provider must keep a copy of the most recent test results on-site at all times.

(f) Providers must follow the routine practices identified in Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018.

(16) A child care provider approved to receive payment may become retroactively ineligible for payment starting on the date the provider violates a requirement under this rule, regardless of the date of the finding.

(17) The Oregon Department of Human Services Background Check Unit (BCU) shall retain their authority to determine eligibility for any child care providers whose applications, including incomplete applications, were submitted before September 1, 2022.

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 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 the IRS identification number used for business; and

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

(2) Payments for ERDC benefits are subject to each of the following limitations:

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

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

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

(d) Except as provided otherwise in subsection (e) 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~~approved and paid through the Department.

(e) 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, 414-3~~5~~60-0000 to 414-3~~5~~60-0405, 414-305-0100 to 414-305-1620, or 414-310-0100 to 414-310-0720.

(f) A caretaker signature is not required on child care billing.

(g) ERDC payment may be made in advance for hours the child enrolled in care for the month. Payment will end if:

(A) ~~t~~The child's connection to a provider in Oregon ELMS ~~is~~ ends prior to the billing being issued; or

(B) ~~t~~The child has been absent for one full calendar month.

(h) 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 individual's site.

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

(3) Child care providers must submit claims through the appropriate method. This is either the form designated by the Department or submission through Oregon ELMS.

(4) No payment will be made for 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.

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

414-175-0075

Child Care Provider Eligibility Standard, Payment Rates, Payment Limits, and Payable Hours

(4) (a)

Group Area A
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	$6.50	$1,110	$9.00	$1,562
Toddler	$5.90	$1,020	$11.00	$1,490
Preschool	$5.40	$930	$8.25	$1,173
School	$5.70	$840	$8.00	$1,189
Special Needs	$6.50	$1,110	$9.00	$1,562

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	$6.86	$879	$1,172	$10.20	$1,328	$1,770
Toddler	$6.22	$808	$1,077	$12.47	$1,267	$1,689
Preschool	$5.70	$737	$982	$9.35	$997	$1,329
School	$6.01	$665	$887	$9.07	$1,010	$1,347
Special Needs	$6.86	$879	$1,172	$10.20	$1,328	$1,770

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	$7.22	$925	$1,233.33	$9.33	$1,373	$1831.00	$12.00	$1,562	$2,083
Toddler	$6.55	$850	$1,133.33	$8.58	$1,256	$1675.00	$14.67	$1,490	$1,987
Preschool	$6.00	$775	$1,033.33	$8.50	$1,108	$1477.33	$11.00	$1,172	$1,563
School	$6.33	$700	$933.33	$7.67	$863	$1150.00	$10.67	$1,189	$1,585
Special Needs	$7.22	$925	$1,233.33	$9.33	$1,373	$1831.00	$12.00	$1,562	$2,083

Zip Codes for Group Area A:
Portland, Bend, Eugene, Corvallis, Springfield, Monmouth and Ashland areas

97003	97004	97005	97006	97007	97008	97009	97010	97013	97014	97015	97019
97022	97023	97024	97027	97028	97030	97031	97034	97035	97036	97041	97045
97051	97055	97056	97060	97062	97064	97068	97070	97080	97086	97089	97106
97109	97112	97113	97116	97119	97123	97124	97125	97132	97133	97135	97140
97149	97201	97202	97203	97204	97205	97206	97209	97210	97211	97212	97213
97214	97215	97216	97217	97218	97219	97220	97221	97222	97223	97224	97225

97227	97229	97230	97231	97232	97233	97236	97239	97242	97258	97266	97267
97268	97286	97292	97330	97331	97333	97339	97351	97361	97371	97376	97401
97402	97403	97404	97405	97408	97454	97455	97477	97478	97482	97520	97525
97701	97702	97703	97707	97708	97709	97078					

(b)

Group Area B
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	$5.76	$1,002	$6.56	$1,373
Toddler	$4.86	$896	$6.98	$1,290
Preschool	$4.86	$834	$7.13	$991
School	$5.40	$744	$7.29	$878
Special Needs	$5.76	$1,002	$6.56	$1,373

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	$6.08	$794	$1,058	$7.44	$1,167	$1,556
Toddler	$5.13	$710	$946	$7.91	$1,097	$1,462
Preschool	$5.13	$660	$880	$8.08	$842	$1,123
School	$5.70	$590	$786	$8.26	$746	$995
Special Needs	$6.08	$794	$1,058	$7.44	$1,167	$1,556

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part- time	Monthly
Infant	$6.40	$835	$1,113.80	$7.13	$1,285	$1713.60	$7.75	$1,373	$1,831
Toddler	$5.40	$747	$996.00	$7.40	$1,133	$1510.00	$9.30	$1,290	$1,720
Preschool	$5.40	$695	$926.80	$6.53	$1,002	$1336.40	$9.50	$991	$1,321
School	$6.00	$620	$827.20	$5.83	$840	$1120.00	$9.72	$878	$1,170
Special Needs	$6.40	$835	$1,113.80	$7.13	$1,285	$1713.60	$7.75	$1,373	$1,831

Zip Codes for Group Area B:
Salem, Medford, Roseburg, Brookings and areas outside the metropolitan areas in Eugene and Portland

	97002	97011	97016	97017	97018	97038	97042	97044	97048	97049	97053
97058	97067	97071	97103	97107	97108	97110	97111	97114	97115	97117	97118
97121	97122	97127	97128	97131	97134	97138	97141	97143	97146	97148	97301
97302	97303	97304	97305	97306	97307	97309	97310	97317	97321	97322	97325

97326	97327	97328	97336	97338	97341	97343	97344	97348	97352	97353	97355
97357	97362	97365	97366	97367	97370	97372	97374	97377	97378	97380	97381
97383	97385	97386	97389	97391	97392	97394	97415	97420	97423	97424	97426
97431	97444	97446	97448	97452	97456	97457	97459	97465	97470	97471	97479
97487	97489	97501	97502	97503	97504	97524	97534	97535	97756	97759	97760
97801	97812	97813									

(c)

Group Area C
STANDARD RATE MAXIMUMS (Not Licensed)

	Standard Family Rate		Standard Center Rate	
	1-157 Hours per month	158-215 Hours per month	1-157 Hours per month	158-215 Hours per month
	Hourly	Monthly	Hourly	Monthly
Infant	$5.76	$1,002	$6.56	$1,373
Toddler	$4.86	$896	$6.98	$1,290
Preschool	$4.86	$834	$7.13	$991
School	$5.40	$744	$7.29	$878
Special Needs	$5.76	$1,002	$6.56	$1,373

ENHANCED RATE MAXIMUMS (Not Licensed)

	Enhanced Family Rate			Enhanced Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	$6.08	$794	$1,058	$7.44	$1,167	$1,556
Toddler	$5.13	$710	$946	$7.91	$1,097	$1,462
Preschool	$5.13	$660	$880	$8.08	$842	$1,123
School	$5.70	$590	$786	$8.26	$746	$995
Special Needs	$6.08	$794	$1,058	$7.44	$1,167	$1,556

LICENSED RATE MAXIMUMS

	Registered Family Rate			Certified Family Rate			Certified Center Rate		
	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month	1-62 Hours per month	63-135 Hours per month	136-215 Hours per month
	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly	Hourly	Part-time	Monthly
Infant	$6.40	$835	$1,113.80	$7.13	$1,285	$1713.60	$7.75	$1,373	$1,831
Toddler	$5.40	$747	$996.00	$7.40	$1,133	$1510.00	$9.30	$1,290	$1,720
Preschool	$5.40	$695	$926.80	$6.53	$1,002	$1336.40	$9.50	$991	$1,321
School	$6.00	$620	$827.20	$5.83	$840	$1120.00	$9.72	$878	$1,170
Special Needs	$6.40	$835	$1,113.80	$7.13	$1,285	$1713.60	$7.75	$1,373	$1,831

Zip Codes for Group Area C: Balance of State, Other State Zips

97001	97020	97021	97026	97029	97032	97033	97037	97039	97040	97050	97054	97057
97063	97065	97101	97102	97130	97136	97137	97144	97145	97147	97324	97329	97335

97342	97345	97346	97347	97350	97358	97359	97360	97364	97368	97369	97375	97384
97388	97390	97396	97406	97407	97409	97410	97411	97412	97413	97414	97416	97417
97419	97425	97427	97428	97429	97430	97432	97433	97434	97435	97436	97437	97438
97439	97441	97442	97443	97447	97449	97450	97451	97453	97458	97460	97461	97462
97463	97464	97466	97467	97468	97469	97472	97473	97476	97480	97481	97484	97486
97488	97490	97491	97492	97493	97494	97495	97496	97497	97498	97499	97522	97523
97526	97527	97530	97531	97532	97533	97536	97537	97538	97539	97540	97541	97543
97544	97601	97603	97604	97620	97621	97622	97623	97624	97625	97626	97627	97630
97632	97633	97634	97635	97636	97637	97638	97639	97640	97641	97710	97711	97712
97720	97721	97722	97730	97731	97732	97733	97734	97735	97736	97737	97738	97739
97740	97741	97742	97750	97751	97752	97753	97754	97758	97761	97810	97814	97817
97818	97819	97820	97821	97822	97823	97824	97825	97826	97827	97828	97830	97831
97833	97834	97835	97836	97837	97838	97839	97840	97841	97842	97843	97844	97845
97846	97848	97850	97856	97857	97859	97861	97862	97864	97865	97867	97868	97869
97870	97871	97872	97873	97874	97875	97876	97877	97880	97882	97883	97884	97885
97886	97901	97902	97903	97904	97905	97906	97907	97908	97909	97910	97911	97913
97914	97918	97919	97920									