

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 414
DEPARTMENT OF EARLY LEARNING AND CARE

FILED

12/16/2024 7:40 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amending ERDC Program Rules for Language Alignment, FPLS, and Distance Learning

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/17/2025 5:00 PM

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

CONTACT: Crys O'Grady
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Filed By:
Crys O'Grady
Rules Coordinator

HEARING(S)

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

DATE: 02/10/2025

TIME: 5:00 PM - 6:00 PM

OFFICER: Crys O'Grady

REMOTE HEARING DETAILS

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

PHONE NUMBER: 1-669-254-5252

CONFERENCE ID: 1605961184

SPECIAL INSTRUCTIONS:

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

NEED FOR THE RULE(S)

The Department of Early Learning and Care (DELIC) is proposing rule amendments to OARs to reflect the use of the term "caretaker" to align with the definition in OAR 414-175-0002, and other related rules, clarify that distance learning child care hours are only covered for medical related concerns, update ERDC income limits and copay tiers for 2025 to align with updates in Federal Poverty Levels (FPLs) and the State Median Income, remove incorrect language about being part of an OSIP-AB (Oregon Supplemental Income Program - Aid to the Blind) Benefit Group, and remove language about Intentional Program Violation (IPV) notices. The following OARs will be amended: 414-175-0006, 414-175-0015, 414-175-0023, 414-175-0050, 414-175-0052, and 414-175-0055.

The proposed amendments are listed below:

OAR 414-175-0006: Authorized Representatives: The term "beneficiary" needed replaced with "caretaker" in ERDC

rules to align with the definition in OAR 414-175-0002 and other related rules.

OAR 414-175-0015: Eligibility Group Structure: The sentence "Each individual in the household group who applies for benefits is an applicant" needed removed from this rule to align with the definitions of caretaker and applicant in OAR 414-175-0002.

OAR 414-175-0023: Requirement to Establish a Child Care Need and Hours Authorizations: The change clarifies that distance learning hours are covered only for medical related concerns affecting the child, or household and family members the child has frequent contact with. This was needed to restore language that was removed during a COVID-specific rule repeal.

OAR 414-175-0050: Income Limits and Copay Amounts: ERDC income limits and copay tiers are being updated for 2025 to align with changes in Federal Poverty Levels (FPLs) and State Median Income. Adding language to clarify that initial income limit standards must be met to determine eligibility before ongoing or exit income limit standards apply.

OAR 414-175-0052: Concurrent and Duplicate Program Benefits: This rule is being updated to remove incorrect language about being part of an OSIP-AB (Oregon Supplemental Income Program - Aid to the Blind) Benefit Group. The change is needed because it was mistakenly included when the ERDC program transferred from the Oregon Department of Human Services (ODHS) to DELC.

OAR 414-175-0055: Decision Notices: Updated to remove language about Intentional Program Violation (IPV) notices; this is needed because ERDC does not cite families for IPV's and the rule currently reads that ERDC does cite families. It replaces "caregiver" with "caretaker" because caregiver is not a defined term in the ERDC ruleset. The change adds new language allowing families to request changes to benefits verbally with a recorded signature, instead of requiring a written 457D form is needed to allow families to make changes to their benefits more promptly when necessary.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

State Median Income levels will be verified through ACF HHS: (To be released)

2025 Federal Poverty Level amounts will be received from HHS on (To be released)

ERDC Data Dashboard: <https://www.oregon.gov/delc/data/Pages/default.aspx#ERDC>

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

There are 3,833 non-center child care providers approved to care for children receiving ERDC. The racial breakdown for each child care provider is as follows:

- White: 54.06%
- Unknown: 28.75%
- Native Hawaiian/Pacific Islander: 0.55%
- Other: 4.67%
- American Indian/Alaskan: 1.36%
- Black: 8.79%
- Asian: 1.83%

Increasing the income limits for ERDC may allow more families to qualify for ERDC. With the income limit increase, each

copay tier will change, which means families could qualify for a lower copay. This means providers would no longer have to collect copays from certain families, or would collect reduced copay amounts from other families, resulting in a higher guaranteed payment to the provider from DELC. This will result in an equally positive impact for all racial populations in Oregon.

Changes to OAR 414-175-0006, OAR 414-175-0015, OAR 414-175-0023, OAR 414-175-0052, and OAR 414-175-0055 only clarify language in OARs based on current policies and procedures. There are no anticipated racial equity impacts for these OAR changes.

FISCAL AND ECONOMIC IMPACT:

The proposed rule amendments may have a moderate financial impact on the Department of Early Learning and Care (DELC). They will impact DELC by increasing the cost of the Employment Related Care (ERDC) program, because the updates will allow more families to qualify for ERDC and shift more of the cost of care to the agency because it will decrease the copay amounts for a small portion of families currently receiving ERDC. Currently, over 16,000 are enrolled in the ERDC program and \$9.54 is the average monthly copay.

Children and families who are currently receiving ERDC or TANF benefits could be positively impacted by these changes, because the higher income limits allow more families to qualify for ERDC and could lower copays for families participating in the program based on their income level. Child care providers could be positively impacted by allowing more of their families to qualify for child care subsidy based on the higher income limit.

COST OF COMPLIANCE:

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

(1) DELC is likely to be economically affected by the rule(s), however no additional state agencies or local governments are likely to be economically affected by the rule(s). Families and child care providers participating in the ERDC program are likely to be economically affected by the rule(s).

(2) The small businesses likely to be impacted are child care providers participating in the ERDC program.

(a) There are currently 4,7360 providers who are approved to receive ERDC payments.

(b) There is no anticipated cost of compliance to small businesses with the adoption of these rules. These rules will not cause the need for new equipment, supplies, additional staff, or additional training.

(c) There is no cost for compliance with these rule changes determined at this time.

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

DELC will convene Rules Advisory Committee (RAC) with community partners from across the state, including organizations serving populations representing racial, ethnic, geographic, socioeconomic, and linguistic diversity, to inform the development of the administrative rules. The RAC will meet on February 4, 2025 from 6-7PM.

DELC will seek additional public comments by posting drafts of the administrative rules on its website and seeking comments both in writing and through a public hearing on February 10, 2025.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

AMEND: 414-175-0006

RULE SUMMARY: OAR 414-175-0006 is being amended to align with terms used throughout the ruleset. The term "beneficiary" is being replaced with "caretaker" in ERDC rules for consistency, aligning with the definition in OAR 414-175-0002 and other related rules.

CHANGES TO RULE:

414-175-0006

Authorized Representatives

(1) Unless otherwise limited by these rules, an authorized representative may do any of the following:¶¶

(a) With the exception of the authorized representative designation form and subject to the exception in subsection (c) of this section (1): complete, sign, and submit any applications, renewals, or documents on behalf of the applicant or ~~beneficiary~~ caretaker.¶¶

(b) Receive copies of notices and other communications from the Department for the applicant or ~~beneficiary~~ caretaker.¶¶

(c) Act on behalf of the applicant or ~~recipient~~ caretaker by reporting information and submitting requests to the Department or the Oregon Department of Human Services.¶¶

(2) The following individuals may appoint an authorized representative on a form designated by the Department subject to the limitations listed in sections of this rule, unless the individual is included in the filing group for the purpose of determining eligibility based on tax filing status:¶¶

(a) The head of household, primary person, or ~~primary contact of any age~~ caretaker.¶¶

(b) Any individual age 18 and older who is included in each eligibility determination group of the head of household, primary person, or primary contact.¶¶

(c) An individual given legal guardianship or power of attorney for ~~an individual age 18 and older who is the head of household, primary person, or caretaker~~ included in each eligibility determination group of the head of household, primary person, or primary contact.¶¶

(3) The Department may accept a designation of an authorized representative via any of the following methods, which must include either a handwritten or electronic signature of both the individual designating the authorized representative and the authorized representative:¶¶

(a) The Internet.¶¶

(b) E-mail.¶¶

(c) Mail.¶¶

(d) Telephonic recording.¶¶

(e) In person.¶¶

(f) Other electronic means.¶¶

(4) The following individuals may not serve as an authorized representative: ¶¶

(a) An individual serving an Intentional Program Violation, unless the Department determines no one else is available to serve as the authorized representative.¶¶

(b) A person who may cause harm to the individual.¶¶

(c) A person who may have a conflict of interest.¶¶

(d) Employees of the Department or an employee of the Department's designee or contractor involved in the certification or issuance processes for ERDC benefits, unless a designated official determined no one else is available to serve as an authorized representative and has given approval.¶¶

(5) The authorized representative must maintain the confidentiality of any information provided by the Department or the Oregon Department of Human Services regarding the represented individual.¶¶

(6) An individual or organization ceases to be an authorized representative when:¶¶

(a) A represented individual notifies the Department or the Oregon Department of Human Services that the designation is terminated;¶¶

(b) A represented individual appoints a different authorized representative;¶¶

(c) The authorized representative notifies the Department or the Oregon Department of Human Services that the designation is terminated;¶¶

(d) The Department or Oregon Department of Human Services determines the authorized representative is no longer permitted to be the authorized representative; or¶¶

(e) There is a change in the legal authority upon which the authorized representative's authority was based.¶¶

(7) An authorized representative may be subject to an overpayment (see OAR 461-195-0501 and OAR 461-195-0541) in addition to other penalties. The Oregon Department of Human Services, on behalf of the Department,

may prohibit the person from serving as an authorized representative for one year.¶

(8) If an individual has applied for or is requesting benefits under the ERDC program, through an authorized representative for purposes of these rules, the individual must utilize the same authorized representative to apply for benefits on behalf of the individual under any other programs in Chapter 461 of the Oregon Administrative Rules, in accordance with OAR 461-115-0090.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

RULE SUMMARY: OAR 414-175-0015 is being amended to reflect the changes in terms for the Eligibility Group Structure. The sentence "Each individual in the household group who applies for benefits is an applicant" is being removed from this rule to align with the definitions of caretaker and applicant in OAR 414-175-0002.

CHANGES TO RULE:

414-175-0015

Eligibility Group Structure

(1) The Household Group is used to determine whose information is relevant to the application. The household group generally consists of the individuals who live together with or without the benefit of a dwelling.¶¶

(a) For individuals who are experiencing homelessness, the household group consists of the individuals who consider themselves living together. Individuals who are experiencing homelessness who do not consider themselves living together are considered separate households.¶¶

(b) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.¶¶

(c) ~~Each individual in the household group who applies for benefits is an applicant.~~ The household group and applicants forms the basis for determining who is in the remaining eligibility groups.¶¶

(d) A separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:¶¶

(A) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value for housing.¶¶

(B) The tenant lives independently from the landlord.¶¶

(C) The tenant:¶¶

(i) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or¶¶

(ii) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.¶¶

(e) Except when a child lives with different caretakers during the month, individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time. If a child lives with different caretakers during the month, the child is considered a member of both household groups. ¶¶

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

(A) Absent because the individual is in an acute care medical facility remains in the household group unless the individual enters long-term care.¶¶

(B) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;¶¶

(C) Absent to care for an emergent need of an individual related to illness, injury, or death;¶¶

(D) Absent but reasonably anticipated to return within ninety (90) days; or¶¶

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

(F) A child who is absent for thirty (30) days or more is in the household group if the child is:¶¶

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons; or¶¶

(ii) In foster care, but expected to return to the household within the next thirty (30) days.¶¶

(2) The Filing group is used to determine which individuals within the Household group must satisfy all relevant eligibility criteria. ¶¶

(a) The filing group consists of the following:¶¶

(A) Each individual from the household group who chooses to apply for benefits; and¶¶

(B) Each individual who must be included because of their relationship to an individual described in subsection (2)(a)(A) of this section.¶¶

(b) If the filing group does not include ~~at least one~~ applicant who meets all nonfinancial eligibility requirements, the filing group is ineligible.¶¶

(c) When an individual in a household group is in more than one filing group for the same program, the filing groups must be combined, unless specified otherwise in administrative rule.¶¶

(d) The filing group consists of each of the following applicants and household group members, even if the individuals does not meet nonfinancial eligibility requirements:¶¶

(A) The ~~C~~aretaker of the child for whom ERDC benefits are requested, unless a child care provider is caring for the child of:¶

(i) A member of the National Guard or U.S. Armed Forces Reserve unit; or¶

(ii) Who has been called to active duty away from the child's home for more than thirty (30) days. ¶

(B) An unmarried child and any sibling, less than eighteen (18) years of age or eighteen (18) years of age and attending secondary school or vocational training at least half time, in the care and custody of the caretaker. A foster child is included if the caretaker wants to include the child in the need group. ¶

(C) Any Parent of a child required to be in the filing group. ¶

(D) Any Parent of an unborn child. ¶

(E) The Spouse of the ~~C~~aretaker. ¶

(e) A Minor parent may form a separate filing group with their dependent child or children when the minor parent applies as a caretaker. ¶

(3) The financial group, need group, and benefit group consist of each individual in the filing group. Each individual in each group must satisfy all relevant eligibility criteria for the benefit group to be determined eligible to receive benefits.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

RULE SUMMARY: OAR 414-175-0023 is being amended to clarify that distance learning hours are covered only for medical related concerns affecting the child, or household and family members the child has frequent contact with. This restores language removed during a COVID-specific rule repeal and broadens it to include all medical concerns.

CHANGES TO RULE:

414-175-0023

Requirement to Establish a Child Care Need and Hours Authorizations

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

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

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

(B) Participate in education hours, either through:¶

(i) Coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid; or¶

(ii) Participation in a high school education or general equivalency diploma (GED) program. To be eligible under this subparagraph the caretaker must be twenty (20) years of age or younger.¶

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

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

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

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

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

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

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

(b) The cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children, unless a child is not attending in-person schooling and is instead participating in distance learning due to medical concerns with the child, a member of the child's household, or a family member with whom the child has frequent contact.¶

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

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

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

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

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

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

(B) When a job loss occurs:¶

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

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

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

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

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

(C) For military transition:¶

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Child Care Hours Allowances¶

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

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

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

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

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

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

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

(b) For a need group that has been determined Categorically Eligible for ERDC in accordance with OAR 414-175-0025, child care hours are determined as follows:¶

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

(B) A caretaker may request additional weekly child care hours. The caretaker must state a reason for needing additional weekly child care hours. Any reason for needing additional weekly child care hours is sufficient to allow a higher amount of weekly hours in accordance with subsections (5)(a)(B) and (C) above, ~~except~~ that the reason cannot be to secure access to a child care facility requiring a child to be in care for more than 25 weekly hours.¶

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

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

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

RULE SUMMARY: OAR 414-175-0050 is being amended to update ERDC income limits and copay tiers for 2025 to align with changes in Federal Poverty Levels (FPLs) and State Median Income. The rule is being amended to add language to clarify that initial income limit standards must be met to determine eligibility before ongoing or exit income limit standards apply.

CHANGES TO RULE:

414-175-0050

Income Limits and Copay Amounts

The Department determines financial eligibility for ERDC and the copay benefit level as follows:

(1) ERDC financial eligibility.

- (a) A need group is not eligible for benefits if the financial group has countable resources above \$1,000,000.
- (b) The monthly countable gross income of the financial group is determined in accordance with OAR 414-175-0040. If monthly countable income equals or exceeds the eligibility standards, the need group is ineligible for ERDC.

(A) At initial certification, the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group is less than 200 percent of the federal poverty level (FPL). The eligibility standard for a need group of eight applies to any need group larger than eight.

(i) A monthly income standard set at 200 percent of the 2024⁵ federal poverty level, and updated every March, is set at the following amounts:

Size of Group &&&& Standard

2 &&&& 3,407

3 &&&& 4,304

4 &&&& 5,200

5 &&&& 6,097

6 &&&& 6,994

7 &&&& 7,890

8 or more &&&& 8,787

(ii) A monthly income standard set at 85 percent of the 2024⁵ state median income, and updated every March, is set at the following amounts:

Size of Group &&&& Standard

2 &&&& \$5,161

3 &&&& \$6,375

4 &&&& \$7,589

5 &&&& \$8,803

6 &&&& \$10,018

7 &&&& \$10,245

8 or more &&&& \$10,473

(iii) A monthly income standard set at 250 percent of the 2024⁵ federal poverty level, and updated every March, is set at the following amounts:

Size of Group &&&& Standard

2 &&&& 4,259

3 &&&& 5,380

4 &&&& 6,500

5 &&&& 7,621

6 &&&& 8,742

7 &&&& 9,863

8 or more &&&& 10,984

(B) After the income standard in (A) is met at initial certification, then during the certification period and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher. The eligibility standard for a need group of eight applies to any need group larger than eight.

(c) The copay calculated under section (3) of this rule is compared to the allowable child care cost under section (2) of this rule. If the copay is equal to or greater than the allowable child care cost, the client is not eligible for ERDC.

(2) Allowable Child Care Cost. For an individual found eligible under section (1) of this rule, the allowable child

\$7,890 - \$8,876.99&&&&&&&.\$70¶

\$8,877 - \$10,244.99&&&&&&&.\$130¶

Need group size of 8 or more¶

Income&&&&&&&&&..Monthly Copay¶

\$0 - \$4,393.99&&&&&&&....\$0¶

\$4,394 - \$6,589.99&&&&&&&.\$5¶

\$6,590 - \$7,688.99&&&&&&&.\$10¶

\$7,689 - \$8,786.99&&&&&&&.\$25¶

\$8,787 - \$9,884.99&&&&&&&.\$70¶

\$9,885 - \$10,983.99&&&&&&&.....\$130¶

(4) Notwithstanding the provisions of this rule section, the ERDC copay may be reduced or temporarily waived as follows:¶

(a) Reduced to \$0 for no more than three months after closure of TANF benefits when:¶

(A) The closure is because an individual in the need group had earned income that led to the TANF closure;¶

(B) An ERDC date of request is established within 90 days of closure; and¶

(C) The individual is eligible for ERDC at initial certification.¶

(b) As described in OAR 414-175-0023.

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

AMEND: 414-175-0052

RULE SUMMARY: OAR 414-175-0052 is being updated to remove incorrect language about being part of an OSIP-AB (Oregon Supplemental Income Program - Aid to the Blind) Benefit Group, which was mistakenly included when the ERDC program transferred from the Oregon Department of Human Services (ODHS) to DELC.

CHANGES TO RULE:

414-175-0052

Concurrent and Duplicate Program Benefits

An individual receiving ERDC benefits may not receive benefits for the same period as a member of two or more different Need Groups unless that individual is a child residing in two different households ~~or also a member of an OSIP-AB Benefit Group.~~

Statutory/Other Authority: ORS 329A.500

Statutes/Other Implemented: ORS 329A.500

RULE SUMMARY: OAR 414-175-0055 is being updated to remove language about Intentional Program Violation (IPV) notices, as ERDC does not cite families for IPVs. It also replaces "caregiver" with "caretaker" for consistency and add new language allowing families to request changes to benefits verbally with a recorded signature, instead of requiring a written 457D form.

CHANGES TO RULE:

414-175-0055

Decision Notices

(1) A decision notice:¶¶

- (a) Specifies the date the notice is mailed, which is the effective date for a basic decision notice.¶¶
- (b) Except as provided in section (2) of this rule, specifies the action the Department intends to take and the effective date of the action.¶¶
- (c) Specifies the reasons for the action.¶¶
- (d) Informs the individual of the extent to which the individual has a right to a hearing before an impartial person.¶¶
- (e) Specifies the method and deadline for requesting a hearing.¶¶
- (f) Informs the individual of the right to representation, including legal counsel, and the right to have witnesses testify on his or her behalf.¶¶
- (g) Provides information about the availability of free legal help.¶¶
- (h) Cites the rules that support the action, or includes a notification of the rules that support the action.¶¶

(2) If benefits are reduced or closed to reflect cost-of-living adjustments in benefits or any other mass change under a program operated by a federal agency or to reflect a mass change to payments in a program operated by the Department:¶¶

(a) The requirements in subsection (1)(b) of this rule are optional. Instead of specifying the action the Department intends to take and the effective date of the action, the decision notice may state all of the following:¶¶

- (A) The general nature of the change.¶¶
- (B) Examples of how the change affects a individual's benefits.¶¶
- (C) The month in which the change will take place.¶¶

(b) The decision notice must also state the individual's right to continue receiving benefits.¶¶

(3) The notice period is used to determine the effective date for taking action when a decision notice is sent to the filing group:¶¶

- (a) For a basic decision notice, the notice period is the month in which the notice is mailed.¶¶
- (b) For a continuing benefit decision notice, the notice period is the budget month from which information is used to initiate the decision notice.¶¶
- (c) For a timely continuing benefit decision notice, the notice period is the month in which the mailing requirement ends.¶¶

(d) Except as provided under section (3)(e) of this rule, the timely continuing benefit decision notice mailing requirement is no later than the 15th day of the month. ¶¶

(e) If the basis for a decision to reduce, suspend, or close a grant ERDC benefits is a change to a benefit standard, the timely continuing benefit decision notice mailing requirement is:¶¶

- (A) At least 30 calendar days before the effective date of the action, or¶¶
- (B) If the Department has fewer than 60 days before the effective date to implement a change to a benefit standard, the mailing requirement is as provided under section (4) of this rule. For purposes of this section, the term "change to a benefit standard" means a change to the applicable inflation-adjusted contribution, income, or payment standard. It does not include the annual adjustment to a standard based on a federal or state inflation rate.¶¶

(4) Each household must receive a notice of expiration prior to the last month of the certification period containing:¶¶

- (a) The date the certification period expires.¶¶
- (b) A statement that to receive benefits, the individual must reapply and be found eligible for a new benefit amount.¶¶

(c) The household's right to request a contested case hearing if the reapplication is denied or if the household objects to the benefit amount.¶¶

(5) Notwithstanding any rule in Chapter 414, to the extent permitted by OAR 137-003-0530, the Department may take any of the following actions:¶¶

- (a) Amend a decision notice with another decision notice or a contested case notice including to clarify the rules that support the decision.¶¶

- (b) Amend a contested case notice.¶
- (c) Delay a reduction or closure of benefits as a result of an individual's request for hearing.¶
- (d) Extend the effective date on a decision notice or contested case notice.¶
- (6) Except as provided in section (5) or when a delay results from the individual's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice. If the notice is void, a new notice is sent to inform the financial group of a new date on which their benefits will be reduced or closed.¶
- (7) No decision notice is required in each of the following situations:¶
 - (a) Benefits are ended because there is no living person in the benefit group.¶
 - (b) A notice was sent, the individual requested a hearing, and either the hearing request is dismissed or a final order is issued.¶
 - (c) The individual has signed a voluntary agreement that qualifies as a final order under ORS 183.417(3)(b) except as provided otherwise in this rule.¶
 - (d) No decision notice is required based on prior notice.¶
- (8) When the Department amends a decision notice with another decision notice under subsection (4) of this section, the date of the amended notice restarts the individual's deadlines to request a hearing or continuing benefits, or both.¶
- (9) When a contested case notice extends an effective date or delays a reduction or closure, the date of the amended notice restarts an individual's timeline to request continuing benefits.¶
- (10) When an individual has a pending hearing request or is receiving continuing benefits, and the Department amends a notice under this section, the individual need not re-file the hearing request or renew the request for continuing benefits.¶
- (11) To end benefits if an individual receives them for less than 30 days, a basic decision notice is sent. ¶
- (12) The Department sends a continuing benefit decision notice when:¶
 - (a) Benefits are calculated in accordance with OAR 414-175-0075.¶
 - (b) To remove an individual from the need group.¶
- (13) To end benefits for an individual who has moved out of Oregon and no longer meets residency requirements under OAR 414-175-0020, the Department sends the following decision notice:¶
 - (a) The Department sends a timely continuing benefit decision notice to the individual who has moved out of Oregon.¶
 - (b) The Department sends a basic decision notice if the individual becomes eligible for benefits in another state.¶
- ~~(14) The Department does not send a notice of termination to an individual disqualified for an IPV after a court order, a final order from an administrative hearing, or a signed waiver (see section (7)(c) and OAR 461-195-0621(2)) that imposes the disqualification.¶~~
- ~~(15) If benefits are reduced or closed to reflect cost-of-living adjustments in benefits or other mass change under a program operated by a federal agency or to reflect a mass change to payments in a program operated by the Department, the type of decision notice used is the same as otherwise applies to the reduction or closure of benefits under the rules of this division. Section 2 of this rule modifies the content requirements for a decision notice sent because of a cost-of-living adjustment or mass change that apply to other decision notices under Section 1.¶~~
- ~~(16) When the Department takes action on information reported on the Periodic Report form, the Department sends a continuing benefit decision notice. The notice includes the amount of income used to determine the benefits or ineligibility.¶~~
 - ~~(a) For all changes not reported on the Periodic Report form, which result in a closure or reduction in benefits, the Department sends a timely continuing benefit decision notice.¶~~
 - ~~(b) When the Department changes the reporting system from one reporting system to another reporting system, the Department provides a continuing benefit decision notice if the change occurs at a time other than at the start of a certification period.¶~~
- ~~(17) The Department sends a continuing benefit decision notice to close benefits when the benefit group fails to return the reapplication form. The case is closed on the last day of the last month of the certification period.¶~~
- ~~(18) When benefits are reduced for recovery of an overpayment (see OAR 414-175-0097 and 461-195-0551) a timely continuing benefit decision notice is sent for the first month of the reduction.¶~~
- ~~(19) Except as provided in section (22) of this rule, when benefits will end or be reduced after a specific period of time, the Department may issue a decision notice informing the benefit group of the date benefits will end or be reduced, and no further decision notice is required.¶~~
- ~~(20) Except as provided in section (22) of this rule, if the benefit group was informed in writing when the benefits began that the benefit group would receive benefits only for a specific period of time a basic decision notice may be used to-¶~~
 - (a) Deny an application to start or continue benefits after the completion of a certification period or to approve

benefits at a level lower than the prior certification period.¶

(b) Indicate that benefits have been ended or reduced when no timely application is submitted.¶

(210) A basic decision notice is used when a special need allowance granted for a specific period of time is removed at the end of the specified period and the benefit group was informed of this in writing when the allowance began. A timely continuing benefit decision notice is required if stopping the special need allowance results in benefit closure.¶

(221) Relating to sections (198), (2019), and (240) of this rule, no additional decision notice is required when:¶

(a) Notwithstanding OAR 414-175-0005, when a benefit group submits an application for a program from which they currently are receiving benefits.¶

(b) When a filing group is receiving priority processing but does not return postponed verification to the Department by the last day of the month in which the application period ends.¶

(c) A decision notice that included the eligibility begin and end dates was given for the reduced ERDC copay described in OAR 414-175-0050 and the three-month eligibility period ends.¶

(232) If the caregiver, another adult member of the need group, or the authorized representative:¶

(a) Makes an oral request to end or reduce benefits, a timely continuing benefit decision notice is sent.¶

(b) Makes a ~~signed, written request~~ request that includes a written or recorded verbal signature to withdraw, end, or reduce benefits, a basic decision notice is sent.¶

(c) Makes an oral request to withdraw an application for benefits, a basic decision notice is sent. The Department may reduce or terminate benefits to an individual when the individual completes a voluntary agreement on a Department form used for this purpose with a written or recorded verbal signature.

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