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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION
ED 3-2019
CHAPTER 471
EMPLOYMENT DEPARTMENT

FILED
06/20/2019 8:11 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Updating rule to allow job postings to be available immediately when posted by validated employers

EFFECTIVE DATE: 06/20/2019 THROUGH 12/16/2019

AGENCY APPROVED DATE: 06/20/2019

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NEED FOR THE RULE(S):

Current OAR 471-020-0035(5) allows streamed job listings to be displayed immediately to the public without review by WorkSource Oregon (WSO) staff. This OAR has been successful as there have been very few issues with these listings and it has allowed WSO staff to use their time more productively, primarily in assisting employers that opt for our enhanced recruitment services. In addition to the streamed job listings, we get many job listings from employers that choose our self-referral option. To further free up staff and allow employers to immediately begin recruitment, we are creating this temporary rule to also exempt self-referral job listings, which were entered by validated employers, from staff review.

JUSTIFICATION OF TEMPORARY FILING:

The Oregon Employment Department is in the process of reviewing efficiencies and ways we can enhance our services to employers and job seekers. In order to implement the system modifications necessary to enhance the recruitment services we provide to employers, we must first temporarily amend OAR 471-020-0035. These system modifications will allow validated employers to begin recruitments immediately upon entering their self-referral job listings into our labor exchange system – iMatchSkills. WorkSource Oregon staff will no longer need to review the vast majority of the annual 82,000 self-referral job listings, thus freeing staff to dedicate more time to assisting employers requesting enhanced recruitment services and allowing job seekers the opportunity to review and apply for jobs more quickly. The Oregon Employment Department will work through the process to make this rule permanent and gather public comment while the temporary rule is in effect.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Administrative Rule 471-020-0035:
<https://secure.sos.state.or.us/oard/view.action?ruleNumber=471-020-0035>

AMEND: 471-020-0035

RULE SUMMARY: This temporary rule adds the phrase "and job listings entered by validated employers" to section (5). This provides clarity of when job listings may be immediately made available to customers.

CHANGES TO RULE:

471-020-0035

Job Listings ¶

- (1) All job listings accepted by authorized Employment Department or partner staff must:¶
 - (a) Be for an identifiable current job opening, or an identifiable future job opening;¶
 - (b) Establish an employer-employee relationship;¶
 - (c) Pay at least minimum wage, unless exempted by state or federal law; and¶
 - (d) Not contain terms or conditions of employment contrary to state or federal law.¶
- (2) The Employment Department will not list job listings replacing workers that are out of work due to a labor dispute, as defined in OAR 471-030-0097.¶
- (3) No job listing will be accepted that charges a fee to candidates, unless:¶
 - (a) The fee is for a drug test and is charged only to individuals who have been offered work contingent on passing the drug test;¶
 - (b) The fee is for a physical examination to determine that the job offered is within the physical capabilities of the applicant and is only charged to individuals who have been offered work contingent upon passing the physical examination; or¶
 - (c) The fee is for a license, test or check (such as a background check) that is required by statute or law and is charged only to individuals who have been offered work contingent on obtaining the required license or passing the required test or check.¶
- (4) Unless the conditions of any job listing can reasonably be shown to be a "bona fide occupational requirement" (BFOQ), as determined by the Department, all employers making use of the Employment Department's job listing system will abide by all state and federal laws relating to Equal Employment Opportunity, including prohibition against discrimination.¶
- (5) Job listings streamed from outside sources that are not staff accepted and job listings entered by validated employers may be immediately made available to customers. If any of these listings are found to be out of compliance with Federal and State laws and rules, the agency will take necessary action to remedy.¶
- (6) The Employment Department shall evaluate all requests to accept job listings streamed from outside sources. If the agency finds a request to be viable, the agency shall enter in a written agreement prior to data exchange.¶
- (7) Subsections (1), (5) and (6) of this rule shall apply retroactively, beginning January 1, 2014.

Statutory/Other Authority: ORS 657.610

Statutes/Other Implemented: ORS 657.610, 657.705 - 657.725