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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 471
EMPLOYMENT DEPARTMENT

FILED
10/14/2019 10:26 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updates to Language in Self-employment Assistance program Rule to Reflect Existing Policies and Procedures

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/29/2019 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.

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Salem, OR 97311

Filed By:
Cristina Koreski
Rules Coordinator

HEARING(S)

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

DATE: 11/22/2019

TIME: 2:00 PM - 4:00 PM

OFFICER: David Genz

ADDRESS: Employment Department
Auditorium

875 Union St NE

Salem, OR 97311

SPECIAL INSTRUCTIONS:

888-850-4523 (Passcode # 440528)

NEED FOR THE RULE(S):

The Employment Department is proposing to update the language in the rule for the requirements for the Self-employment Assistance (SEA) program to reflect existing policies and procedures. While these requirements have been in place for a number of years, we are making housekeeping changes to better clarify these items for our customers, staff, and stakeholders.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes (ORS), available online at www.oregonlegislature.gov, or from the agency; and Oregon Administrative Rules, available online at http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx, or from the agency.

FISCAL AND ECONOMIC IMPACT:

The Employment Department does not anticipate any external fiscal or economic impact due to the change in rule because the changes are consistent with existing policies and procedures.

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) There are no state agencies, units of local government, or members of the public likely to be economically affected by the rule.

(2)(a) Only small businesses participating in the Self-employment Assistance (SEA) program will be subject to the rule. The department approved approximately 700 small businesses to participate in the program in 2018. This number represents less than 1% of total valid Unemployment Insurance (UI) claims filed during the same time frame (out of 125,810). The department anticipates a similar percentage of small businesses will be subject to the rule in the future.

(b) The department does not anticipate any change in expected reporting, record keeping and administrative activities and cost required to comply with the rule.

(c) The department does not anticipate any increase in costs of professional services, equipment supplies, labor and increased administration required to comply with the rule.

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

While the department did not consult with any specific small businesses on the proposed amendment to this rule, the department received input and support on the proposed changes to this rule from Oregon's Small Business Development Center (SBDC). As a key partner with the department in support of the Self-employment Assistance (SEA) program, the SBDC continues to be involved in the process to facilitate participation in the program and support SEA program participants. Additionally, the department will continue to seek input from small businesses during the public comment and public hearing process.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The department did not consult with an administrative rule advisory committee. The department opted not to conduct one because, as specified under Oregon Revised Statute (ORS) 657.695, the department has an Employment Department Advisory Council. By law, this council serves to assist in the effective development of policies and programs with respect to unemployment insurance and employment service and is composed of men and women representing employers and employees in equal numbers, and representatives of the public who shall elect their chairperson. The department will consult with the council prior to the filing of this proposed rulemaking and will continue to seek input from stakeholders during the public comment period and at the public hearing.

AMEND: 471-030-0235

RULE SUMMARY: Although these have been requirements for Self-employment Assistance (SEA) program participants for some time, the three proposed changes to the language in the rule:

- 1) The department took over the responsibility for reviewing and approving applicants for the SEA program from the Oregon's Small Business Development Center (SBDC) several years ago. While the SBDC still helps SEA participants generate business plans and feasibility studies, the department also approves these.
- 2) Also reflecting existing policy, the business established by the individual and the individual themselves must be legally able to operate the business under the provisions of the federal government and in the state in which they do business.
- 3) As specified under Oregon Revised Statute (ORS) 657.158(1)(b) and (c), SEA program participants may also be required to perform other types of "Self-employment assistance activities" and provide supporting documentation to demonstrate the completion of those activities to the department within 45 calendar days of the date the individual was approved for the Self-employment Assistance program.

CHANGES TO RULE:

Self-employment Assistance Program ¶¶

- (1) As used in ORS 657.158(1)(b), "entrepreneurial training" means training that will develop skills in organizing, operating, and assuming the risk for a business venture.¶¶
- (2) As used in ORS 657.158(3)(d), "full-time basis" means 40 hours each week.¶¶
- (3) Any individual eligible for "regular benefits," as defined in ORS 657.158(1)(a), can request to participate in self-employment assistance activities in accordance with ORS 657.158.¶¶
- (4) Any individual submitting an Application Form to participate in the Self-employment Assistance Program agrees to:¶¶
 - (a) Meet the terms and conditions of ORS 657.156 and 657.158, and OAR 471-030-0034;¶¶
 - (b) Obtain any necessary occupational certifications prior to submitting the Application Form. The Director may waive this requirement when such requirement would be inconsistent with the policy set forth in ORS 657.158; and¶¶
 - (c) Affirm that they are able to complete their initial business plan specified under ORS 657.158(1)(b) and (c), provide supporting documentation as required in within a reasonable time, as determined by the local Oregon Small Business Devveg by the Employment Department to demonstrate the completion of any types of "Self-employment Center Network representative, in consultation with the Employment Department assistance activities" within 45 calendar days of the date the individual was approved for the Self-employment Assistance program.¶¶
- (5) All applications for the Self-employment Assistance Program must:¶¶
 - (a) Be for a business that is legal to operate under Oregon law;¶¶
 - ~~(b) Be for a business that the individual is legally able to operate under Oregon law; the provisions of the federal government and the laws of the state in which the individual who owns the business is practicing their business;¶¶~~
 - (b) Be for a business that the individual is legally able to operate under the provisions of the federal government and the laws of the state in which the individual who owns the business is practicing their business; and¶¶
 - (c) Be for a business that has been reviewed for feasibility by the Employment Department in collaboration with a local Oregon Small Business Development Center Nnetwork representative, in consultation with the Employment Department.

Statutory/Other Authority: 657, ORS 657.610, 657.158

Statutes/Other Implemented: ORS 657.158