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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

CWP 126-2020

CHAPTER 413
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE PROGRAMS

FILED

05/07/2020 11:26 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending Division 030-Case Management – Program Eligibility to extend age for Chafee housing eligibility.

EFFECTIVE DATE: 05/07/2020 THROUGH 11/02/2020

AGENCY APPROVED DATE: 05/07/2020

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NEED FOR THE RULE(S):

This temporary rule is necessary to respond to the current state of emergency declared due to the coronavirus (COVID 19) pandemic.

JUSTIFICATION OF TEMPORARY FILING:

On March 8, 2020, Governor Kate Brown declared an emergency under ORS 401.165 et seq. due to the coronavirus (COVID-19). On March 11, 2020, the World Health Organization announced that COVID-19 is a global pandemic. On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency. On March 16, 2020, the Department of Human Services imposed protective measures to restrict visitors to long-term care facilities and other residential facilities. The Oregon Health Authority adopted similar measures at the Oregon State Hospital and other behavioral health settings, and limited admissions to the Oregon State Hospital. On March 23, 2020, Governor Brown issued executive order 20-12 ordering Oregonians to stay home, closed certain businesses, required social distancing measures, and imposed special requirements for outdoor areas and licensed childcare facilities.

The Department finds that COVID-19 may cause respiratory disease leading to serious illness or death. COVID-19 spreads person-to-person through coughing, sneezing, close personal contact, including touching a surface with the virus on it and then touching your mouth, nose, or eyes. State and local public health officials advised that the virus is circulating in the community and expected the number of cases to increase. The United States Centers for Disease Control and Prevention (CDC) reported that COVID-19 is most contagious when the individual is most symptomatic, but may also spread before symptoms appear. CDC recommends measures to limit spread of the disease in the community, including limitations on events and gatherings.

Young people who age out of foster care work hard to succeed in college, find housing, become financially stable. The COVID-19 pandemic threatens to reverse their efforts and places vulnerable young people in danger of homelessness, food insecurity, and mental health crisis.

The Department finds that in order to ensure the well-being of young adults, who recently exited foster care, the age eligibility for Chafee housing must be extended during this crisis. The Department is also waiving the \$7,000 lifetime Chafee Housing funding cap to meet the needs of young adults residing independently, who have experienced a significant cut in wages due to COVID-19. The Department finds that failure to act promptly by amending the rule will result in serious prejudice to the public interest and young adults served by the Department. The Department needs to proceed by filing a temporary rule because the public and young adults will immediately benefit from the amendment.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

No document relied upon

RULES:

413-030-0000, 413-030-0410

AMEND: 413-030-0000

RULE TITLE: Definitions

RULE SUMMARY: OAR 413-030-0000 sets forth the definitions used in the division and are being amended to increase the age limit for "Former foster child" and "Young adult" as they relate to rule 413-030-0410.

RULE TEXT:

The following definitions apply to OAR chapter 413, division 30:

(1) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child or young adult's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interest of a child or young adult.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(2) "Case plan" means a written, goal-oriented, time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(3) "Chafee housing" means a payment to assist in covering the costs of room and board made to an eligible young adult who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(4) "Child" means a person under 18 years of age.

(5) "Department" means the Oregon Department of Human Services.

(6) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.

(7) "Family support services case plan" means a goal-oriented, time-limited, individualized plan for a child and the child's family or a former foster child. The Department and the family or former foster child jointly develop a "family support services case plan" that addresses the service goals and the identified needs of the child and the child's family or the former foster child.

(8) "Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180

cumulative days after 14 years of age. For purposes of 413-030-0410 only, former foster child means a person under 23 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.

(9) "Full-time activity" means a child or young adult is engaged in any combination of Department-approved productive activities for a minimum of 36 hours per week.

(10) "GED" means a General Educational Development certificate issued pursuant to ORS 351.768.

(11) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(12) "ILP" means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.

(13) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(14) "Indian child" means any unmarried person who is under age 18 and either:

(a) Is a member or citizen of an Indian tribe; or

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

(15) "Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.

(16) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.610, or by a juvenile court. In cases involving an Indian child under the ICWA, parent means any biological parent of an Indian child, or any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed biological father where paternity has not been acknowledged or established. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(17) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent resources with the parents, relatives, or other people who may assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(18) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(19) "Service Agreement" means a written document between the Department and a parent, guardian, or former foster child that identifies one or more of the service goals in a family support services case plan, and the services and activities that are necessary for the parent, guardian, or former foster child to achieve the goal.

(20) "Service goal" means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.

(21) "Short term services" mean actions or activities that are limited in duration to a maximum of 180 days.

(22) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent.

(23) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(24) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(25) "Young adult" means a person aged 18 through 20 years. For purposes of 413-030-0410 only, young adult means a person aged 18 through 22 years.

STATUTORY/OTHER AUTHORITY: ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 418.005

AMEND: 413-030-0410

RULE TITLE: Eligibility for Youth Transition Services

RULE SUMMARY: OAR 413-030-0410 sets forth the Eligibility for Youth Transition Services and is being amended to extend the age criteria for Chafee housing during the COVID-19 pandemic.

RULE TEXT:

(1) Life skills training. A child, young adult or former foster child must meet the following eligibility criteria for life skills training:

(a) Be a child 14 years of age or older or a young adult who is in substitute care through the state or a federally recognized tribe's child welfare system; or

(b) Be a former foster child.

(2) Independent living housing subsidy. A child or young adult must meet the following eligibility criteria for independent living housing subsidy:

(a) Be 16 years of age or older.

(b) Be in the care and custody of the Department.

(c) Be engaged in full-time activity.

(d) Have had at least one prior substitute care placement.

(e) Have the approval of the court to participate in the independent living housing subsidy service.

(f) If a high school diploma has not been achieved, the child or young adult must be working actively to achieve a high school diploma or GED.

(g) The child or young adult must be enrolled concurrently in skill-building services.

(h) The child or young adult may not live with any of his or her parents.

(3) Chafee housing. A former foster child must meet the following eligibility criteria for Chafee housing:

(a) Be 18 years of age or older but not yet 23 years of age.

(b) Have been in substitute care for at least 180 days after age 14;

(c) Have been discharged from the care and custody of the state or one of the federally recognized tribe's child welfare systems on or after reaching 18 years of age.

(d) Be engaged in full-time activity.

(e) Have at least four hours of paid employment per week.

(f) If a high school diploma has not been achieved, the former foster child must be actively working to achieve a high school diploma or GED.

(g) Be enrolled in skill-building services.

(h) Not live with any of his or her parents.

(i) The child or young adult is only eligible for Chafee housing and an education and training voucher when the cost of room and board is not included in calculation of the cost of attendance.

(4) Education and training grant. A child, young adult, or former foster child must meet the following eligibility criteria for an education and training grant:

(a) Be adopted or entered a guardianship after Sept. 1, 2015, at 13 years of age or older through the Department; or

(b) Be 16 years of age or older and currently in substitute care through the state or one of the federally recognized tribes; or

(c) Have been dismissed from substitute care after reaching 16 years of age and had 180 or more cumulative days of substitute care after their 14th birthday.

(d) The child, young adult or former foster child may remain eligible until he or she reaches 26 years of age.

(e) The child, young adult or former foster child must be making satisfactory progress in their area of study, as determined by the postsecondary institution, in order to continue receiving the grant.

(f) The child, young adult or former foster child may receive the grant for a maximum of 5 years (whether or not the years are consecutive).

(g) The former foster child is only eligible for Chafee housing and an education and training voucher when the cost of room and board is not included in calculation of the cost of attendance.

(5) Youth Transition discretionary funds. A child, young adult, or former foster child must be eligible for and receiving skill-building services as a prerequisite to eligibility for discretionary fund resources.

(6) Services that may be utilized in the transition to independent living, as appropriate and available, when the child, young adult, or former foster child meets all other eligibility requirements, include, but are not limited to:

(a) Flex funds as described in OAR chapter 413, division 053;

(b) Payments made for special or extraordinary needs as described in OAR 413-090-0300 to 413-090-0380;

(c) Other resources provided through the Department of Human Services such as Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families program benefits, vocational rehabilitation, teen pregnancy prevention, Aging and People with Disabilities, or the Office of Developmental Disabilities Services; and

(d) Other state or community health care programs.

(7) The ILP coordinator may approve an exception to the eligibility requirements of sections (2), (3), or (4) of this rule when there is a time-limited plan for meeting requirements for eligibility or as necessary during times of a declared state or national emergency. The caseworker must provide to the ILP coordinator written documentation explaining why the exception is necessary for the child or young adult to achieve his or her comprehensive transition plan.

STATUTORY/OTHER AUTHORITY: ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 418.005, ORS 409.010, ORS 418.475