

OREGON

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LEXSTAT OR. ADMIN R 461-145-0025

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CHAPTER 461 DEPARTMENT OF HUMAN SERVICES, SELF-SUFFICIENCY PROGRAMS
DIVISION 145 TREATMENT OF SPECIFIC ASSETS

Or. Admin. R. 461-145-0025 (2007)

461-145-0025 Approved Accounts

; OSIP-EPD and OSIPM-EPD

(1) All money in an approved account (see OAR 461-001-0035) is excluded as a resource during the determination of eligibility.

(2) Only money from the client's own earned income, or money contributed from an employer based on earnings, may be deposited into an approved account.

(3) A retirement-related approved account must be set up in a financial institution and must comply with IRS regulations.

(4) An asset purchased with money from an approved account is excluded if the asset is for an employment and independence expense (see OAR 461-001-0035).

(5) If money from the approved account is used for a purpose not consistent with the definition of approved account in OAR 461-001-0035, the client will be prohibited from utilizing an approved account for the next 12 months for the purposes of the determination of eligibility.

Statutory Authority: *ORS 411.060, 411.070 & 414.042*

Statutes Implemented: *ORS 411.060, 411.070 & 414.042*

History: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

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Or. Admin. R. 461-145-0030 (2007)

461-145-0030 Bank Account

(1) As used in this rule, a bank account includes a money market account and an account in a financial institution (see *OAR 461-001-0000*), except that accounts in financial institutions for stocks, bonds, and certificates of deposit (CDs) are covered in *OAR 461-145-0520*.

(2) Money in a bank account available to one or more members of the financial group (see *OAR 461-110-0530*) is counted as a resource in accordance with *OAR 461-140-0020*, unless it is excluded under this rule or another rule in this chapter of rules.

(3) In each of the following situations, money in a bank account is excluded as a resource:

(a) An approved account if excluded under *OAR 461-145-0025*.

(b) A burial fund if excluded under *OAR 461-145-0040*.

(c) A designated bank account for an OSIP-IC and OSIPM-IC client if:

(A) The account is designated to receive program benefits by direct deposit through electronic funds transfer; and

(B) The benefit funds are not commingled with other assets of the client.

(d) Funds from excluded income if excluded as a resource under *OAR 461-140-0070*.

(e) An Individual Education Account if excluded under *OAR 461-145-0265*.

(f) Money for a plan for self-support if excluded under *OAR 461-145-0405*.

(g) Proceeds from the sale of a home if excluded as a resource under *OAR 461-145-0460*.

(4) Interest and dividends earned on funds in a bank account are counted as unearned income, unless the account is excluded as a resource under section (3) of this rule or under another rule in this chapter of rules.

Statutory Authority: *ORS 411.060, 411.816, 418.100*

Statutes Implemented: *ORS 411.060, 411.700, 411.816, 418.100*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

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Or. Admin. R. 461-145-0040 (2007)

461-145-0040 Burial Arrangements and Burial Fund

(1) The following definitions apply to this rule:

(a) A burial arrangement is 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 makes allowance for burial costs. A burial arrangement does not include a burial space, which is covered in *OAR 461-145-0050*, or a burial fund.

(b) A burial fund is an identifiable fund set aside for a client's burial costs. A burial fund does not include a burial space, which is covered in *OAR 461-145-0050*, or a burial arrangement.

(2) A burial arrangement is treated as follows:

(a) In the ERDC, FS, MAA, MAF, OHP, REF, REFM, SAC and TANF programs, the equity value (defined in *OAR 461-001-0000*) of one prepaid burial arrangement for each member of the filing group is excluded.

(b) For grandfathered OSIP and OSIPM clients (see *OAR 461-125-0330(2)*, *461-125-0370(1)(b)*, and *461-135-0771*), up to \$ 1,000 in combined equity value of each burial arrangement with a licensed funeral director (plus accrued interest) and life insurance policies are excluded. The amount of combined cash and equity value of all life insurance and burial arrangements that is over \$ 1,000 is counted as a resource.

(c) In all programs not listed in subsection (a) of this section and for OSIP and OSIPM clients not covered by subsection (b) of this section, a burial arrangement is treated in the manner as the program treats a burial fund under section (3) of this rule.

(3) A burial fund is treated as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) A burial fund may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds or life insurance policies.

(B) A burial fund is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.

(C) A burial fund may be established if the countable resources of a client exceed allowable limits. A burial fund is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.

(D) The following calculation determines the exclusion for a burial fund:

(i) Up to \$ 1,500 of a burial fund may be excluded from resources for each of the following:

(I) The client.

(II) The client's spouse.

- (ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:
 - (I) The face value of life insurance policies owned by the client that have already been excluded from resources.
 - (II) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs.
- (E) All interest earned on an excluded burial fund or increases in the value of an excluded burial arrangement if left in the fund is excluded from income.
- (b) In all programs not listed in subsection (a) of this section, a burial fund is counted as a resource.
- (4) There is no overpayment for the time period during which the burial arrangement or burial fund existed if a client ---
 - (a) Cancels an excluded burial arrangement; or
 - (b) Uses an excluded burial fund for any purpose other than burial costs.
- (5) 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.

Statutory Authority: *ORS 409.050, 411.060, 411.070, 411.816, 418.100*

Statutes Implemented: *ORS 409.050, 411.060, 411.070, 411.816, 418.100*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

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DIVISION 145 TREATMENT OF SPECIFIC ASSETS

Or. Admin. R. 461-145-0050 (2007)

461-145-0050 Burial Space and Merchandise

(1) Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased persons. Burial spaces also include headstones and the opening and closing of the grave.

(a) In the ERDC, FS, MAA, MAF, OHP, REF, SAC, and TANF programs, the equity value (see *OAR 461-001-0000*) of one burial space is excluded as a resource for each member of the financial group (see *OAR 461-110-0530*).

(b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the equity value of a burial space is excluded as a resource if owned by the client and designated for the client, the spouse of the client, minor and adult children, siblings, parents, and the spouse of any of these people.

(2) Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The equity value of burial merchandise is excluded as a resource if owned by the client and designated for:

(a) In the ERDC, FS, MAA, MAF, OHP, REF, SAC, and TANF programs, a member of the financial group.

(b) In the GA, GAM, OSIP, OSIPM, and QMB programs, the client, the spouse of the client, minor and adult children, siblings, parents, and the spouse of any of these people.

Statutory Authority: *ORS 411.060, 411.816, 418.100*

Statutes Implemented: *ORS 411.060, 411.816, 418.100*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

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DIVISION 145 TREATMENT OF SPECIFIC ASSETS

Or. Admin. R. 461-145-0185 (2007)

461-145-0185 Floating Homes and Houseboats

- (1) Floating homes and houseboats are treated in the same manner as real property under *OAR 461-145-0420*.
- (2) Floating homes and houseboats are subject to *OAR 461-145-0220* and *461-145-0250* if applicable.

Statutory Authority: *ORS 411.060, 411.816, 418.100*
Statutes Implemented: *ORS 411.060, 411.816, 418.100*

History: SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

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Or. Admin. R. 461-145-0220 (2007)

461-145-0220 Home

(1) 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.

(A) In all programs except FS, GA, GAM, OSIP, OSIPM, and QMB, 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) In the FS, GA, GAM, OSIP, OSIPM, and QMB programs, contiguous property is property not separated from the land on which the home is built by land owned by people outside the financial group.

(b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.

(2) Exclusion of home and other property:

(a) For a client who has an initial month (see *ORAR 461-001-0000*) of long-term care or waived services on or after January 1, 2006:

(A) For purposes of this subsection:

(i) The definition of "child" in *ORAR 461-001-0000* does not apply.

(ii) "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.

(B) The value of a home is excluded if the client or the spouse of the client occupies the home and the equity in the home is \$ 500,000 or less.

(C) The home is countable as a resource if the client has equity in the home of more than \$ 500,000, unless one of the following requirements is met:

(i) The spouse of the client occupies the home.

(ii) The child of the client occupies the home.

(iii) The client is legally unable to convert the equity value in the home to cash.

(iv) The home equity is excluded under *OAR 461-145-0250*.

(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) In the Food Stamp program only, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they live is excluded, and the land they intend to build on is treated as real property in accordance with *OAR 461-145-0420*.

(3) Exclusion during temporary absence: If the value of a home is excluded under section (2) of this rule, the value of this home remains excluded in each of the following situations:

(a) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, 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.

(b) In the Food Stamp program, when the financial group is absent because of employment or training for future employment.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, when the client is absent to receive care in a medical institution, if one of the following is true:

(A) The absent client is a single adult who has provided evidence that he or she will return to the home. The evidence must reflect the subjective intent of the client, regardless of the client's medical condition. A written statement from a competent client is sufficient to prove the intent.

(B) The home remains occupied by the client's spouse, child, or a relative dependent on the client for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.

(d) In the MAA, MAF, REF, REF, SAC, and TANF programs, when all members of the filing group are absent because:

(A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or

(B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.

Statutory Authority: *ORS 411.060, 411.816, 418.100*

Statutes Implemented: *ORS 411.060, 411.816, 418.100*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

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CHAPTER 461 DEPARTMENT OF HUMAN SERVICES, SELF-SUFFICIENCY PROGRAMS
DIVISION 145 TREATMENT OF SPECIFIC ASSETS

Or. Admin. R. 461-145-0343 (2007)

461-145-0343 Manufactured and Mobile Homes

- (1) Manufactured and mobile homes are treated in the same manner as real property under *OAR 461-145-0420*.
- (2) Manufactured and mobile homes are subject to *OAR 461-145-0220* and *OAR 461-145-0250* if applicable.

Statutory Authority: *ORS 411.060, 411.816, 418.100*
Statutes Implemented: *ORS 411.060, 411.816, 418.100*

History: SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07

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Or. Admin. R. 461-145-0360 (2007)

461-145-0360 Motor Vehicle

(1) The value of disability-related apparatus, optional equipment, or low mileage is not considered in determining the fair market value (defined in *OAR 461-001-0000*) of an automobile, truck, or van. The fair market value of an automobile, truck, or van is presumed to be the "average trade-in value" established in the National Automobile Dealers Association's (NADA) Used Car Guide. If the vehicle is not listed in the NADA Used Car Guide, the "average trade-in value" established in the Kelley Blue Book is used. If the vehicle is not listed in the NADA Used Car Guide and Kelley Blue Book, the "average trade-in value" established in a similar publication is used. A client may rebut the presumption with a statement from a car dealer, mechanic, or other reliable source. If the vehicle is not listed in the NADA Used Car Guide, Kelley Blue Book, and a similar publication, the estimate of the value by the client may be accepted unless it appears questionable, in which case additional evidence of the value is required.

(2) Some programs permit an exclusion for a portion of the equity value (defined in *OAR 461-001-0000*) for any licensed and unlicensed motor vehicles owned by the financial group:

(a) In the FS, MAA, MAF, REF, SAC, and TANF programs, this exclusion is up to \$ 10,000.

(b) In the GA and GAM programs, this exclusion is up to \$ 4,500.

(c) Any remaining equity in that vehicle and the total equity value of all other vehicles is counted as a resource.

(3) In the EA, ERDC, and OHP programs, all motor vehicles are excluded.

(4) For grandfathered financial groups in the OSIP and OSIPM programs, one motor vehicle in operating condition is excluded, and the equity value of any other motor vehicles is counted as a resource.

(5) In the OSIP, OSIPM, and QMB programs:

(a) The total value of a vehicle selected by the financial group is excluded if it is used for employment or necessary and continuing medical treatment. If it is not, the first \$ 4,500 of the fair market value is excluded. The amount above \$ 4,500 is counted as a resource.

(b) The total equity value of all other vehicles is counted as a resource.

(6) In the OSIP-EPD and OSIPM-EPD programs, if a vehicle was purchased as an employment and independence expense (defined in *OAR 461-110-0115*) or with moneys from an approved account (defined in *461-110-0115*), the total value of the vehicle is excluded.

Statutory Authority: *ORS 411.060 & 418.100*

Statutes Implemented: *ORS 411.060, 411.117 & 418.100*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f.

& cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06

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Or. Admin. R. 461-145-0380 (2007)

461-145-0380 Pension and Retirement Plans

(1) 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) Annuities or trusts if purchased by a client with funds from any of the following retirement plans (authorized by *section 408 of the Internal Revenue Code of 1986* at subsections (a), (b), (c), (k), (p) or (q), or at section 408A):

(A) Individual Retirement Annuity.

(B) Individual Retirement Account.

(C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.

(D) Accounts established by employers and certain associations of employees.

(E) Simplified Employee Pension (SEP).

(F) Simple Retirement Account.

(2) Benefits the client receives from retirement funds are treated as follows:

(a) Monthly payments are counted as unearned income.

(b) All other payments are counted as periodic or lump-sum income (see *OAR 461-140-0110* and *461-140-0120*).

(3) Pension and retirement plans that allow clients to withdraw funds before retirement are treated as follows:

(a) In all programs except FS and OHP, the equity value (defined at *OAR 461-001-0000*) of the plan, minus any penalty for early withdrawal, is counted as a resource.

(b) In the Food Stamp program, any portion of an individual retirement account (IRA), or a KEOGH plan that is available before, upon, or following retirement, is counted as an available resource, less a penalty for early withdrawal. The value of any other plan is excluded as a resource.

(c) In the OHP program, the equity value of the plan is excluded as a resource.

Statutory Authority: *ORS 411.060, 411.816, 418.100*

Statutes Implemented: *ORS 411.060, 411.816, 418.100*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

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Or. Admin. R. 461-145-0420 (2007)

461-145-0420 Real Property

(1) For purposes of this rule, manufactured and mobile homes and floating homes and houseboats are treated in the same manner as real property.

(2) The applicant has the burden of proof of establishing the fair market value (see *OAR 461-001-0000*) of real property (see *OAR 461-001-0000*). 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.

(3) Real property that is not income-producing or the home of the financial group (see *OAR 461-110-0530*) is treated as follows:

(a) In the MAA, MAF, REF, REFM, SAC, and TANF programs, the equity value (see *OAR 461-001-0000*) of all real property that is not excluded under a TANF Interim Assistance agreement is counted as a resource.

(b) In the EA, ERDC, and OHP programs, real property is excluded.

(c) In the FS program, real property is treated as follows:

(A) The equity value of real property is excluded if the financial group is making a good-faith effort to sell the real property at a fair market price.

(B) The equity value of the real property is counted as a resource if the financial group refuses to make a good-faith effort to sell.

(C) The resource is excluded if selling the resource would produce a net gain to the financial group of less than \$ 1,500.

(d) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The equity value of real property that was the home of the financial group is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price, unless the equity value in the home makes the client ineligible under *OAR 461-145-0220(2)(a)*.

(B) The equity value of all other real property is excluded if the financial group is making a good-faith effort to sell the real property at a reasonable price. The equity value is counted after the real property is excluded for nine months unless the failure to sell it is for reasons beyond the reasonable control of the financial group.

(4) The treatment of real property that is income producing is covered in *OAR 461-145-0250*.

(5) The treatment of the home of the financial group is covered in *OAR 461-145-0220*.

Statutory Authority: *ORS 411.060, 411.816 & 418.100*
Statutes Implemented: *ORS 411.060, 411.816 & 418.100*

Or. Admin. R. 461-145-0420

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07

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*** IN THE JULY 1, 2007 OREGON BULLETIN ***

CHAPTER 461 DEPARTMENT OF HUMAN SERVICES, SELF-SUFFICIENCY PROGRAMS
DIVISION 145 TREATMENT OF SPECIFIC ASSETS

Or. Admin. R. 461-145-0430 (2007)

461-145-0430 Real Property Excluded Under ADC Interim Assistance Agreement

For ADC-BAS, ADCM-BAS, REF, and REFM, treat real property where the equity value puts the financial group over the ADC resource limit as follows:

(1) Exclude real property for a maximum of nine months if the financial group signs and complies with the terms of the ADC Interim Assistance Agreement. After the ninth month, count the equity value of the property as a resource.

(2) To comply with the terms of the ADC Interim Assistance Agreement, the financial group must agree to do all the following:

(a) Make a good-faith effort to sell the property; and

(b) Use the proceeds from the sale of the property to reimburse the Division for all benefits paid under the terms of the ADC Interim Assistance Agreement. The reimbursement will not exceed the net proceeds of the sale of the property.

(3) The amount of benefits paid while the financial group has excess real property is an overpayment if the financial group fails to notify the Division that they have the property.

(4) The amount of benefits paid while the financial group has excess real property up to the net proceeds of the sale of the property is an overpayment if the property sells and the financial group does not repay the Division per the terms of the ADC Interim Assistance Agreement.

Statutory Authority: ORS 183, ORS 411, ORS 414, ORS 416 & ORS 418
Statutes Implemented: *ORS 411.700 & ORS 411.816*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90

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CHAPTER 461 DEPARTMENT OF HUMAN SERVICES, SELF-SUFFICIENCY PROGRAMS
DIVISION 145 TREATMENT OF SPECIFIC ASSETS

Or. Admin. R. 461-145-0520 (2007)

461-145-0520 Stocks, Bonds and Other Securities

(1) Except as provided in section (2) of this rule, securities, including stocks, bonds, and certificates of deposit (CDs), are counted as a resource.

(2) 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.

(3) A request for a hardship waiver may be made to the United States Department of the Treasury, Bureau of Public Debt, Accrual Services Division, PO Box 1328, Parkersburg, West Virginia 26106-1328.

Statutory Authority: *ORS 411.060, 411.816 & 418.100*

Statutes Implemented: *ORS 411.060, 411.816 & 418.100*

History: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 4-2005, f. & cert. ef. 4-1-05

FOR EDUCATIONAL USE ONLY
O.R.S. § 411.816

West's Oregon Revised Statutes Annotated [Currentness \(Refs & Annos\)](#)

Title 34. Human Services; Juvenile Code; Corrections

▣ [Chapter 411](#). Adult and Family Services; Public Assistance [\(Refs & Annos\)](#)

▣ Food Stamp Benefits

➡ **411.816. Eligibility and benefit level**

The Department of Human Services shall adopt rules conforming to federal laws and regulations required to be observed in maintaining the eligibility of this state to receive from the federal government, and to issue food stamp benefits under a food stamp plan. Rules adopted by the department pursuant to this section shall relate to and include, but shall not be limited to:

(1) The classifications of and requirements of eligibility for individuals and households to receive food stamp benefits under such plans. The limitations upon the income and resources of individuals and households established as requirements of eligibility under this section shall not exceed the maximum limitations on income and resources allowable under federal laws, rules and regulations;

(2) The periods during which individuals and households shall be certified or recertified to be eligible to receive food stamp benefits under such plans;

(3) The amount of food stamp benefits to be issued or allotted to recipients, with respect to any period, under a food stamp plan;

(4) Periodic redetermination and review of the eligibility of recipients to receive food stamp benefits issued under such plans;

(5) Cancellation of certifications issued for, and adjustment of the numbers of individuals in any household eligible to receive food stamp benefits issued to recipients under such plans for any period in accordance with changes of circumstances in individual cases; and

(6) Procedures to review, on the basis of substantial hardship, request for such adjustments.

Laws 1963, c. 599, § 7 (enacted in lieu of 411.815); Laws 1969, c. 571, § 1; Laws 1989, c. 942, § 2; [Laws 1997, c. 581, § 11.](#)

LIBRARY REFERENCES

2003 Main Volume

Key Numbers

[Agriculture k2.6.](#)

Westlaw Key Number Search: 23k2.6.

Encyclopedias

[C.J.S. Agriculture §§ 27 to 29.](#)

NOTES OF DECISIONS

Equal protection of laws [1](#)

[1](#). Equal protection of laws

Regulation which operated to prohibit food stamp recipient from deducting his payments on his wife's former student loan from his income in determining his food stamp eligibility was not unreasonable nor arbitrary and did not constitute a denial of equal protection. Food Stamp Act of 1964, §§ 2-16, [7 U.S.C.A. §§ 2011-2025](#); ORS 411.816. [Blondell v. Juras, 1973, 15 Or.App. 321, 515 P.2d 727](#), certiorari denied [95 S.Ct. 122, 419 U.S. 866, 42 L.Ed.2d 104. Constitutional Law ¶242.3\(1\)](#)

O. R. S. § 411.816, OR ST § 411.816

Current through End of the 2005 Reg. Sess.

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END OF DOCUMENT

OREGON ADMINISTRATIVE RULES COMPILATION
CHAPTER 461. DEPARTMENT OF HUMAN SERVICES, SELF-SUFFICIENCY
PROGRAMS
DIVISION 135. SPECIFIC PROGRAM REQUIREMENTS

Current through June 15, 2007

461-135-0505 Categorical Eligibility for FS

- (1) A person is categorically eligible for food stamps if the person:
 - (a) Receives or is authorized to receive GA or SSI benefits or cash benefits funded by TANF;
 - (b) Receives or is authorized to receive in-kind benefits or services funded by TANF;
 - (c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act ([42 U.S.C. 1382h\(a\) or \(b\)](#)); or
 - (d) Is a member of a financial group with *countable income* less than 185 percent of the federal poverty level as described in [OAR 461-155-0180\(5\)](#) -- and has received a pamphlet about Information and Referral Services.
- (2) A benefit or service is "funded by TANF" (see section (1) of this rule) if it is provided as part of the ADC-PLS, Assessment, EA, ERDC, JOBS, TA-DVS, transition, or other TANF-funded program.
- (3) For an entire filing group to be categorically eligible for food stamps, it must contain only clients who are categorically eligible for food stamps. For the purpose of determining who is categorically eligible for food stamps, in some programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit. Those programs are the ERDC and TA-DVS programs and any housing assistance or transition service funded by TANF.
- (4) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.
- (5) A person categorically eligible for the Food Stamp program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The person is also presumed to meet the requirements for a social security number, sponsored alien information, and residency, if verified in a public assistance program.

(6) When a filing group contains both members who are categorically eligible for food stamps and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.

(7) A person cannot be categorically eligible for food stamps in either of the following circumstances:

(a) The person is disqualified from receiving food stamps because of an intentional program violation.

(b) The person is a *primary person* disqualified from receiving food stamps for failure to comply with an OFSET activity or component contained in an OFSET *case plan*.

Stat. Auth.: [ORS 411.816](#)

Stats. Implemented: [ORS 411.816](#)

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 29-2000(Temp), f. & cert. ef. 12-1-00 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

OAR 461-135-0505, OR ADC 461-135-0505

OR ADC 461-135-0505

END OF DOCUMENT

Federal Budget Proposal Would Hit Oregon Food Stamp Program Particularly Hard

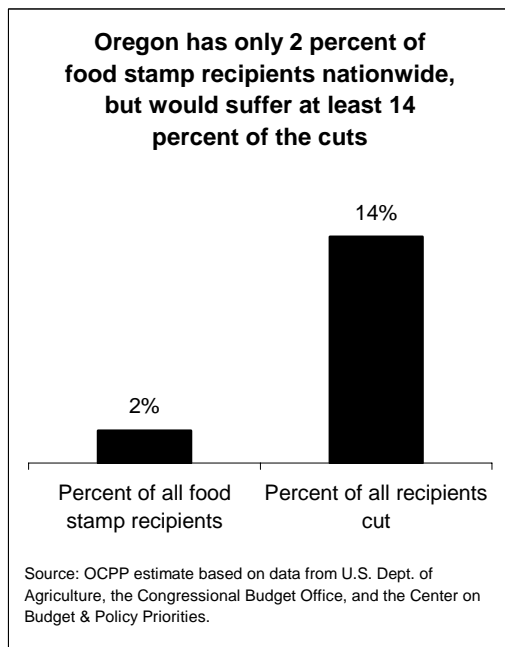
Oregon would suffer at least 14 percent of the cuts

Congress will be deciding soon whether to eliminate food stamp benefits for about 255,000 low-income Americans.¹ The cuts are contained in the U.S. House of Representative's budget "reconciliation" bill passed on November 18. This bill would slash more than \$700 million in food stamp benefits for low-income Americans over the next six years.² By contrast, the U.S. Senate budget "reconciliation" bill would protect the Food Stamp program entirely from cuts. The final outcome will be determined in a conference committee involving members from both chambers, and the conference agreement will be sent to both chambers for approval.

The specific cuts in the House budget bill target Oregon for a larger share of the reductions than most states. If these cuts happen, Oregon's recent success in reducing hunger might well reverse course.

Under the House plan, at least 35,000 low-income Oregonians would lose food stamp benefits. While Oregonians comprise only two percent of the national food stamp program caseload, Oregonians losing food stamp benefits would equal about 14 percent of the total number of people nationwide who would be cut.

Food stamp benefits have proved key to reducing hunger



Five years ago when Oregon had one of the nation's highest hunger rates, state agencies working with anti-hunger advocates decided to fight back primarily by improving the food stamp program. Oregon was able to make these improvements largely because, as part of welfare reform in the mid-1990s, Congress allowed states more flexibility in setting food stamp rules.

Oregon's high hunger rate was due, in large part, to hunger among low-wage working families. Research has shown that as working Oregon families improved their incomes, they were less likely to escape food insecurity than families with similar incomes in other states.³

Using the new flexibility Congress established under welfare reform, Oregon simplified the previously cumbersome food stamp rules to make more low-income working families eligible. One of the most important changes – known as "expanded categorical eligibility" – particularly benefited low-income working families paying relatively high amounts for housing or child care, and those holding modest levels of assets, such as a reliable car for getting to work. Even after the changes, only families with net incomes (after

considering housing and work-related costs) at or under the poverty line receive food stamp benefits.⁴

Federal Budget Proposal Would Hit Oregon Food Stamp Program Particularly Hard

Several other improvements also helped ease Oregon's high hunger rate. The State launched an ambitious outreach and information initiative, significantly scaled back paperwork requirements, and adopted other federal food stamp program options, such as "transitional food stamps" for families leaving cash assistance. Combined, these changes – along with the worsening of the economy beginning in 2001 – sharply increased the number of Oregonians receiving food stamps.

Between September 2000 and September 2005, the number of Oregonians receiving food stamps in Oregon nearly doubled, rising 81 percent by adding 192,000 individuals. This expansion of food stamps, paid for almost entirely with federal dollars, is bringing an additional \$21 million *per month* into Oregon's economy.⁵

The increase in food stamp program utilization led to an improvement in Oregon's hunger rate. Between 1999-01 and 2002-04, Oregon was the only state in the country to see its hunger rate fall.⁶ According to USDA estimates, hunger among Oregon households fell from 5.8 percent to 3.8 percent. Oregon went from having one of the nation's highest rates of hunger to a rate that is not statistically different from the national rate. In addition, a November 2005 report finds that Oregon provides food stamps to 85 percent of individuals in the state who are eligible - one of the highest food stamp participation rates in the U.S.⁷

U.S. House cuts target Oregon

The House bill made two changes to the food stamp program that would deny food stamp benefits to about 255,000 low-income Americans.⁸ First, the House sharply scaled back "categorical eligibility," the provision Oregon used to expand its food stamp program to reach more low-income working families. Second, the House increased from five to seven the number of years *legal* immigrant families must reside in the United States before becoming eligible for food stamps. Both of these provisions would hurt Oregon more than most states.

At least 34,500 would lose food stamps to categorical eligibility cut

Using Oregon Department of Human Services data, OCPP estimates that a minimum of 34,500 Oregonians in households with incomes slightly over the federal income limit (130 percent of poverty, or \$20,917 for a family of three) would lose food stamps as a result of the House-passed budget proposal to restrict categorical eligibility.⁹ Those cut off would primarily be low-income working families who are not receiving child care or housing subsidies and therefore have relatively high child care or housing costs. More than one in four – about 28 percent – would include elderly or disabled members.¹⁰

Food stamp recipients who are not categorically eligible must abide by restrictions on the value of any car or other assets they own. Categorically eligible recipients are exempt from these restrictions, but Congress would end this exemption under the House bill. As a result, Oregonians who are currently categorically eligible would lose food stamps if they own a car or other modest assets valued higher than the limits allow.

It is not known how many categorically eligible Oregonians would lose food stamps because of this change, but the number could be significant. That is why OCPP estimates that *a minimum of 34,500* Oregonians would lose food stamps if Congress restricts categorical eligibility. An additional, but unknown, number of Oregonians would lose food stamps because they own a reliable car or other modest assets.

More than 1,000 legal immigrants would also lose food stamps

The House also proposes to withhold food stamps from most low-income immigrant adults who are in the country legally and who meet all the other eligibility requirements for food stamps until they have been living in the U.S. for seven years. Currently, legal immigrants must wait five years before being eligible for food stamps.

Federal Budget Proposal Would Hit Oregon Food Stamp Program Particularly Hard

This change hits Oregon particularly hard because a relatively large portion of Oregon's food stamp caseload consists of legal immigrants. The Congressional Budget Office estimates that nationally 70,000 legal immigrant adults will lose food stamp eligibility as a result of this change. Using food stamp data on the number of legal immigrant adults currently on the food stamp program, the Center on Budget and Policy Priorities has allocated CBO's number across the states and estimates that Oregon ranks 12th nationally in the number of legal immigrant food stamp recipients. The Center on Budget and Policy Priorities estimates that more than 1,000 legal immigrants in Oregon would lose food stamps once this change is fully implemented in 2008.

In total, Oregon would suffer at least 14 percent of all cuts

In total, the cuts for immigrants and the cuts to the categorical eligibility provision would mean that a *minimum* of 35,500 Oregonians will lose food stamps if Congress approves the House proposal. This does not include the unknown number of Oregonians who would lose food stamps because they own a reliable car or other modest assets. The known number of Oregonians affected by the cuts (35,500) represents 14 percent of the 255,000 food stamp recipients who would lose benefits nationwide.

The domino effect: Losing food stamps leads to the loss of other assistance

The damage to Oregon from food stamp cuts would be particularly harsh because of a domino effect that would occur if thousands of low-income families lose food stamps. Oregon has reduced administrative costs and streamlined certain low-income assistance programs by linking eligibility for these programs to food stamp eligibility. For instance, children in families receiving food stamps are automatically eligible to receive free school lunches and (where available) breakfasts. Some children whose families lose food stamps under the House cuts will remain eligible for free lunches. Others, despite their families' very low net income, may be required to pay a portion of their school meals tab. Still others may lose school meal assistance altogether, since the new rules would require Oregon to adopt a complicated new system for families to access the assistance.

Food stamp households are also eligible for a \$13.50 reduction in their monthly phone bill under the Oregon Telephone Assistance Program (OTAP). OTAP-eligible households can also have their telephone installation fee reduced by half. Households must apply for the assistance, and when OTAP verifies that the household receives food stamps, they are automatically deemed eligible. When families lose food stamps they lose this automatic eligibility for OTAP. Currently, slightly over 63,000 Oregon households are benefiting from this program. About 59,000 of these are eligible because they receive food stamps.¹¹

The Oregon Senior Farmers Market Nutrition Program provides coupons to help low-income Oregonians aged 60 or over pay for Oregon-grown fruits, vegetables, and herbs. To be eligible for this assistance, Oregon seniors must be receiving either food stamps or Medicaid.¹² Some seniors losing food stamps would lose access to this program as well.

Finally, Oregonians with college loan debt may delay paying their loans if they are receiving food stamps or benefits from some other state or federal public assistance program.¹³ The loss of food stamp benefits may mean losing these loan debt delays also.

If the House budget proposal prevails, the cuts to the food stamp program will reduce these other important assistance programs to low-income Oregon families. Oregon's success in reducing its hunger rate by expanding the food stamp program five years ago benefited from the other assistance that food stamps leveraged for low-income families. Reversing this progress would make it particularly difficult for Oregon to hold down and further reduce its hunger rate in the future.

Senate bill protects Oregon's progress against hunger

The final outcome of the budget battle will be determined in a conference committee involving both chambers. Both chambers will subsequently vote on the conference bill. For Oregon to stay on track in

Federal Budget Proposal Would Hit Oregon Food Stamp Program Particularly Hard

defeating hunger, the conference committee report – and ultimately the votes on that report in the House and Senate – must reject the House’s food stamp program cuts in favor of the Senate’s plan.

This work is made possible in part by the support of the Ford Foundation, the Governance and Public Policy Program of the Open Society Institute, the Gray Family Fund of the Oregon Community Foundation, the Penney Family Fund, the Oregon School Employees Association, and by the generous support of organizations and individuals. The Oregon Center for Public Policy is a part of the State Fiscal Analysis Initiative (SFAI) and the Economic Analysis and Research Network (EARN).

Endnotes:

¹ Congressional Budget Office, *Additional Information on CBO’s Estimate for the Nutrition Provisions of H.R. 4241, the Deficit Reduction Act of 2005, as Passed by the House of Representatives on November 18, 2005*, December 1, 2005. Attachment in letter from Douglas Holtz-Eakin, Director of the Congressional Budget Office to the Honorable Bob Goodlatte, Chairman of the Committee on Agriculture, U.S. House of Representatives. Available at <http://www.cbo.gov/ftpdocs/69xx/doc6910/NutritionLetter.pdf>

² The Congressional Budget Office estimates the cuts will total \$733 million between 2006 and 2011.

³ Edwards, Mark and Bruce Weber, *Food Insecurity and Hunger in Oregon: A New Look*, Working Papers in Agricultural and Resource Economics, Working Paper No. AREC 03-104, November 2003. Available at: <http://arec.oregonstate.edu/ruralstudies/Publications/hunger.pdf>.

⁴ See Dean, Stacy, *Administration’s Budget Proposes to Cut the Food Stamp Program*, Center on Budget and Policy Priorities, March 4, 2005. Available at <http://www.cbpp.org/3-4-05fa.pdf>.

⁵ The federal government pays 100 percent of the cost of food stamp benefits and 50 percent of the state’s costs of administering the program.

⁶ Nord, Mark, Margaret Andrews, and Steven Carlson. *Household Food Security in the United States, 2004*, Economic Research Service, U.S. Department of Agriculture. Economic Research Report No. ERR11, October 2005, p. 53-54. Available at <http://www.ers.usda.gov/publications/err11/>

⁷ Castner, Laura A. and Allen L. Schirm, *Reaching Those in Need: State Food Stamp Participation Rates in 2003*, Food and Nutrition Service, U.S. Department of Agriculture, November 2005. Available at <http://www.fns.usda.gov/oane/MENU/Published/FSP/FSPPartState.htm#reaching03>.

⁸ See note 1.

⁹ Estimate based on data from Oregon Department of Human Services. On average between February 2005 and October 2005, 37,778 Oregon food stamp recipients lived in households with incomes over 130 percent of poverty. Nine percent of these recipients lived in low-income households that are likely to keep food stamps under the House proposal, because they contain elderly or disabled members whose medical or housing costs are likely to keep them eligible for the program under special rules for such households. Subtracting this nine percent from the total number of households with incomes over 130 percent of poverty leaves 34,555 Oregonians in households that will have their food stamps eliminated under the House plan.

¹⁰ Estimate based on data from Oregon Department of Human Services. On average between February 2005 and October 2005, 4,443 households with elderly or disabled members are likely to lose food stamps under the House plan. These households all currently receive \$10 in food stamps, the minimum payment in Oregon. These households make up 28 percent of the 16,137 low-income households who would be cut from food stamps because their incomes slightly exceed the federal income threshold.

¹¹ In November 2005, 63,184 households received OTAP assistance. Of these, 59,101 were food stamp households. Since there were 221,511 food stamp households that month, OTAP was reaching only about 27 percent of all food stamp households. Many more households are eligible but have not applied. OTAP data from Damara Paris, PUC.

¹² The number of seniors helped through this program is limited by available federal funds. For more information, see http://www.oregon.gov/DHS/spwpcd/food_fin/foodfin.shtml.

¹³ Economic hardship loan deferments are available through the Federal Family Education Loan Program. An application is available at <http://www.ecmc.org/documents/hrd99.pdf>.

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The Oregonian

December 1, 2000 Friday SUNRISE EDITION

SECTION: LOCAL STORIES; Pg. B01

LENGTH: 660 words

HEADLINE: FOOD STAMPS AVAILABLE TO MORE PEOPLE A NEW RULE EASES RESTRICTIONS ON INCOME AND ASSETS, PREVENTING THOUSANDS FROM HAVING TO CHOOSE BETWEEN BENEFITS OR OWNING A CAR

SOURCE: JAMES MAYER and DAVE HOGAN - The Oregonian

BODY:

Thousands more low-income Oregonians will qualify for food stamps with new rules that go into effect today.

People will be able to earn more money, plus own a decent car or other assets, and still receive benefits, said Jim Neely, deputy administrator of the Adult and Family Services Division, the state's welfare agency.

The agency made the changes under a federal law that gives states flexibility to set eligibility levels for food stamps. The food stamp program is financed entirely by the federal government.

"The biggest difference is going to be for those individuals who were not eligible simply because they had a vehicle," Neely said.

Beginning today, food stamps will be available to Oregonians who earn at or below 185 percent of the federal poverty level, up from 130 percent. This change brings the income limit up to the same standard used by the Women, Infant and Children program and the school lunch program.

A family of four will now qualify if their income is less than \$2,628 a month. With the previous rules, the cutoff was \$1,847.

The increase vastly expands the pool of potential food stamp recipients. In October, 241,931 people received food stamps in Oregon. Neely said about 385,000 Oregonians have incomes between 130 percent and 185 percent of the poverty level, but he stressed that the number includes people ineligible for food stamps for other reasons. He also said most of those people would qualify only for the minimum benefit of \$10 a month.

But many will qualify for much more, said Michael Leachman, an analyst with the Oregon Center for Public Policy, which advocates programs to assist low-income people.

Leachman said the amount of food stamp benefits a family receives depends not just on income but also on expenses such as housing and child care. He said a family of four earning 150 percent of the poverty level, with two children in child care, would receive \$177 a month in food stamps.

And the expanded income limit will help people who lose their food stamps because they get a raise or a better-paying job, said Kim Thomas, public policy manager for the Oregon Food Bank.

"We've had people tell us that they asked their boss not to give them that \$1 or \$2 raise," she said. "That's a horrible position to be in."

Thomas said she hopes the new rules will relieve the pressure on the food bank, which last year delivered more than 500,000 emergency food boxes.

The other rule change may have more impact, officials and advocates said.

FOOD STAMPS AVAILABLE TO MORE PEOPLE A NEW RULE EASES RESTRICTIONS ON INCOME AND ASSETS, PREVENTING THOUSANDS FROM HAVING TO CHOOSE BETWEEN BENEFITS OR OWNING A CAR The Oregonian December 1, 2000 Friday

With the old rules, people with more than \$2,000 in assets didn't qualify for food stamps. The value of any vehicle over \$4,650 counted toward the limit. So if they owned a car worth \$6,650, they couldn't get food stamps, regardless of income.

"It forced people to choose between a reliable vehicle to get to work or food stamps," Neely said.

State officials, pressed by advocacy groups to expand food stamp eligibility, turned to a tactic used by some other states: placing people under welfare rules.

People who receive federal welfare benefits do not have to meet the asset limits for food stamps. The state, with federal approval, produced a brochure explaining low-income programs aimed at Oregonians who earn less than 185 percent of the poverty level. That information qualified as a welfare benefit, exempting those people from the asset limit.

Neely said the change will make food stamps available for about 2,800 more Oregonians a month.

The change will be welcome in rural Oregon, where rough roads and harsh weather mean many people need heavy-duty, reliable vehicles, Thomas said.

"With the way they live, they have to give up their rig to get food stamps," she said. "It's a real hard decision. Most people stick with their rig to get a job." You can reach James Mayer at 503-294-4109 or by e-mail at jim-mayer@news.oregonian.com, and Dave Hogan at 503-221-8531 or davehogan@news.oregonian.com.

GRAPHIC: Sidebar - New food stamp rules

LOAD-DATE: December 2, 2000

A-Engrossed
House Bill 2094

Ordered by the House May 10
Including House Amendments dated May 10

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Housing and Community Services Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Removes tax credit limit for donations to individual development account fiduciary organizations. Applies to tax years beginning on or after January 1, 2008.]

Allows persons 12 years of age or older to be individual development account holder. Repeals Individual Children's Development Account Program. Allows exclusion of vehicle from net worth calculation for potential account holder. Expands permissible purposes of individual development account.

Eliminates restriction on individual development account size. Limits annual and total amount for deposits of state-directed moneys to accounts.

Revises fiduciary organization qualifications. Specifies required content for personal development plans.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to development accounts for individuals; creating new provisions; amending ORS 458.670,
3 458.680, 458.685, 458.690 and 458.695; repealing ORS 417.900; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **NOTE:** Section 1 was deleted by amendment. Subsequent sections were not renumbered.

6 **SECTION 2.** ORS 458.670 is amended to read:

7 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
8 wise:

9 (1) "Account holder" means *[a member of a lower income household who is the named depositor*
10 *of an individual development account]* **a resident of this state who:**

11 **(a) Is 12 years of age or older;**

12 **(b) Is a member of a lower income household; and**

13 **(c) Has established an individual development account with a fiduciary organization.**

14 (2) "Fiduciary organization" means **an organization selected under ORS 458.695 to adminis-**
15 **ter state moneys directed to individual development accounts and that is:**

16 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
17 of the Internal Revenue Code as amended and in effect on *[January 1, 1999]* **December 31, 2006;** or

18 (b) A federally recognized *[Indian tribe or band]* **Oregon Indian tribe that is located, to a**
19 **significant degree, within the boundaries of this state.**

20 (3) "Financial institution" means:

21 (a) An organization regulated under ORS chapters 706 to 716, 722 or 723; or

22 (b) In the case of individual development accounts established for the purpose described in ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 458.685 (1)(c), a financial institution as defined in ORS 348.841.

2 (4) "Individual development account" means a contract between an account holder and a
3 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
4 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
5 the account holder to accumulate assets for use toward achieving a specific purpose approved by
6 the fiduciary organization.

7 (5) "Lower income household" means a household having an income equal to or less than 80
8 percent of the median household income for the area as determined by the Housing and Community
9 Services Department. In making the determination, the department shall give consideration to any
10 data on area household income published by the United States Department of Housing and Urban
11 Development.

12 (6) "**Resident of this state**" has the meaning given that term in ORS 316.027.

13 **SECTION 3.** ORS 458.680 is amended to read:

14 458.680. (1) A person who qualifies to become an account holder may enter into an agreement
15 with a fiduciary organization for the establishment of an individual development account.

16 (2) [A person qualifies to become an account holder if the person is] **To become an account**
17 **holder a person must, in addition to meeting any other qualifications, be** a member of a lower
18 income household that has a net worth of less than \$20,000. As used in this subsection, "net
19 worth" means the value of all assets owned in whole or part by household members, other than eq-
20 uity in a residence **and in one vehicle**, minus the total debts and obligations of household members,
21 all as measured at the time that the person applies to establish the account.

22 (3) [A person applying to establish an account must enroll in a personal development plan devel-
23 oped by the person and the fiduciary organization. The plan must provide the person with appropriate
24 financial counseling, career or business planning and other services] **Every account holder, with**
25 **support from the fiduciary organization, shall develop a personal development plan to ad-**
26 **advance account holder self-reliance. The personal development plan must include appropriate**
27 **coaching, mentorship, social support, financial adequacy training and asset-specific training**
28 designed to increase the independence of the person and the person's household through achieve-
29 ment of the account's approved purpose.

30 (4) Notwithstanding subsection (1) of this section, a fiduciary organization may refuse to allow
31 a qualified person to establish an account if establishment of the account would result in the mem-
32 bers of a lower income household having more than one account. Notwithstanding subsection (1) of
33 this section, a fiduciary organization shall refuse to allow a qualified person to establish an account
34 if establishment of the account would result in the members of a lower income household having
35 more than two accounts.

36 **SECTION 4.** ORS 458.685 is amended to read:

37 458.685. (1) A person may establish an individual development account only for a purpose ap-
38 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:

39 (a) The acquisition of post-secondary education or job training.

40 (b) If the account holder has established the account for the benefit of a household member who
41 is under the age of 18 years, the payment of extracurricular nontuition expenses designed to prepare
42 the member for post-secondary education or job training.

43 (c) If the account holder has established a college savings network account under ORS 348.841
44 to 348.873 on behalf of a designated beneficiary, the establishment of an additional college savings
45 network account on behalf of the same designated beneficiary.

1 (d) The purchase of a primary residence. In addition to payment on the purchase price of the
2 residence, account moneys may be used to pay any usual or reasonable settlement, financing or
3 other closing costs. The account holder must not have owned or held any interest in a residence
4 during the three years prior to making the purchase. However, this three-year period shall not apply
5 to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

6 (e) The capitalization of a small business. Account moneys may be used for capital, plant,
7 equipment and inventory expenses or for working capital pursuant to a business plan. The business
8 plan must have been developed by a financial institution, nonprofit microenterprise program or other
9 qualified agent demonstrating business expertise and have been approved by the fiduciary organ-
10 ization. The business plan must include a description of the services or goods to be sold, a marketing
11 plan and projected financial statements.

12 **(f) Improvements, repairs or modifications necessary to make or keep the account hold-**
13 **er's primary dwelling habitable, accessible or visitable for the account holder or a household**
14 **member. This paragraph does not apply to improvements, repairs or modifications made to**
15 **a rented primary dwelling to achieve or maintain a habitable condition for which ORS 90.320**
16 **(1) places responsibility on the landlord. As used in this paragraph, "accessible" and**
17 **"visitable" have the meanings given those terms in ORS 456.508.**

18 **(g) The purchase of equipment, technology or specialized training required to become**
19 **competitive in obtaining or maintaining employment or to start or maintain a business, as**
20 **specified in the account holder's personal development plan for increasing the independence**
21 **of the person.**

22 (2)(a) If an emergency occurs, an account holder may withdraw all or part of the account hold-
23 er's deposits to an individual development account for a purpose not described in subsection (1) of
24 this section. As used in this paragraph, an emergency includes making payments for necessary
25 medical expenses, to avoid eviction of the account holder from the account holder's residence and
26 for necessary living expenses following a loss of employment.

27 (b) The account holder must reimburse the account for the amount withdrawn under this sub-
28 section within 12 months after the date of the withdrawal. Failure of an account holder to make a
29 timely reimbursement to the account is grounds for removing the account holder from the individual
30 development account program. Until the reimbursement has been made in full, an account holder
31 may not withdraw any matching deposits or accrued interest on matching deposits from the account.

32 (3) If an account holder withdraws moneys from an individual development account for other
33 than an approved purpose, the fiduciary organization may remove the account holder from the pro-
34 gram.

35 (4) If an account holder moves from the area where the program is conducted or is otherwise
36 unable to continue in the program, the fiduciary organization may remove the account holder from
37 the program.

38 (5) If an account holder is removed from the program under subsection (2), (3) or (4) of this
39 section, all matching deposits in the account and all interest earned on matching deposits shall re-
40 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
41 source of matching deposits for other accounts.

42 **SECTION 5.** ORS 458.690 is amended to read:

43 458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695
44 may qualify as the recipient of account contributions that qualify the contributor for a tax credit
45 under ORS 315.271 only if the fiduciary organization structures the accounts to have the following

1 features:

2 (a) The fiduciary organization matches amounts deposited by the account holder according to a
3 formula established by the fiduciary organization. The fiduciary organization shall **maintain on de-**
4 **posit in the account** not less than \$1 nor more than \$5 [*into the account*] for each \$1 deposited by
5 the account holder.

6 (b) The matching deposits by the fiduciary organization to the individual development account
7 are placed in:

8 (A) A savings account jointly held by the account holder and the fiduciary organization and
9 requiring the signatures of both for withdrawals;

10 (B) A savings account that is controlled by the fiduciary organization and is separate from the
11 savings account of the account holder; or

12 (C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a col-
13 lege savings network account under ORS 348.841 to 348.873, in which the fiduciary organization is
14 the account owner as defined in ORS 348.841.

15 [(2) *Deposits by a fiduciary organization to an account may not exceed \$2,000 in any 12-month*
16 *period. A fiduciary organization may designate a lower amount as a limit on annual matching deposits*
17 *to an account.*]

18 (2) **Account holders may not accrue more than \$3,000 of matching funds under subsection**
19 **(1) of this section from state-directed moneys in any 12-month period. A fiduciary organiza-**
20 **tion may designate a lower amount as a limit on annual matching funds. A fiduciary organ-**
21 **ization shall maintain on deposit sufficient funds to cover the matching deposit agreements**
22 **for all individual development accounts managed by the organization.**

23 (3) [*The total amount paid into an individual development account during its existence, including*
24 *amounts from deposits, matching deposits and interest or investment earnings, may not exceed*
25 *\$20,000.*] **The Housing and Community Services Department shall adopt rules to establish a**
26 **maximum total amount of state-directed moneys that may be deposited as matching funds**
27 **into an individual development account.**

28 **SECTION 6.** ORS 458.695 is amended to read:

29 458.695. The Housing and Community Services Department may select fiduciary organizations
30 to administer moneys directed by the state to individual development account purposes. In making
31 the selections, the department shall consider factors including, but not limited to:

32 (1) The ability of the fiduciary organization to implement and administer the individual devel-
33 opment account program, including the ability to verify account holder eligibility, certify that
34 matching deposits are used only for approved purposes and exercise general fiscal accountability;

35 (2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits
36 of account holders;

37 (3) The capacity of the fiduciary organization to provide [*financial counseling and other related*
38 *services to account holders*] **appropriate support services and general assistance to advance ac-**
39 **count holder self-reliance**; and

40 (4) The links that the fiduciary organization has to other activities and programs designed to
41 increase the independence of this state's lower income households through education and training,
42 home ownership and small business development.

43 **SECTION 7. ORS 417.900 is repealed.**

44 **SECTION 8. The amendments to ORS 458.680 (3) by section 3 of this 2007 Act apply to**
45 **holders of accounts established on or after the effective date of this 2007 Act.**

1 **SECTION 9. This 2007 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
3 **on its passage.**

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0005 (2007)

813-300-0005 General Purpose

OAR chapter 813, division 300, is promulgated to accomplish the general purposes of *ORS 315.271* and *458.670* through *458.700*, as they pertain to the Housing and Community Services Department and its supervision of individual development accounts ("IDAs"). These statutes, among other things, authorize the creation of IDAs between lower income account holders and authorized fiduciary organizations. Through these IDAs, account holders may deposit funds into cooperating financial institutions so as to accumulate assets that may be used by them in a manner consistent with personal development plans developed in conjunction with their participating fiduciary organization. The fiduciary organizations, in turn, deposit matching funds through the corresponding IDAs into financial institutions so as to augment account holder assets. The fiduciary organizations also provide their expertise in coordination of the personal development plans. Fiduciary organizations largely obtain their matching funds from contributors. Contributions to fiduciary organizations for use as IDA matching deposits may qualify the contributor for a tax credit under *ORS 315.271*.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0010 (2007)

813-300-0010 Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Account holder" means a member of a lower income household that has a net worth of less than \$ 20,000 who is the named depositor of an individual development account.

(2) "Contributor" means a person or entity contributing funds to the Department or to a fiduciary organization for the purpose of matching IDA deposits by an account holder or for funding program plan operations.

(3) "Department" means the Housing and Community Services Department established in *ORS 456.555* and, where applicable, its designee.

(4) "Designated beneficiary" means a minor-age member of the account holder's household who is the beneficiary of an IDA used to pay the member's extracurricular non-tuition expenses designed to prepare the member for post-secondary education or job training.

(5) "Fiduciary organization" means a non-profit, fund raising organization that is exempt from taxation under *section 501(c)(3) of the Internal Revenue Code* as amended and in effect on January 1, 1999, or a federally recognized Indian tribe or band, as selected by the department under these rules.

(6) "Fiduciary organization program plan" or "program plan" means a mission statement by a fiduciary organization and the corresponding detailed plan by it for the solicitation of contributions (tax credit or otherwise) and prospective account holders, the management of IDA's and their associated personal development plans, and the operation of the fiduciary organization itself -- all as approved by the Department and with such modifications as the Department may require. A prospective program plan must accompany any application to the Department for its approval of a fiduciary organization.

(7) "Financial institution" means an organization regulated under *ORS Chapters 706 to 716, 722 or 723*, or in the case of an account established for the purpose described in *ORS 458.685(1)(c)* related to college savings plans, a financial institution as defined in *ORS 348.841*.

(8) "Individual development account (IDA)" or "account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into a financial institution by the fiduciary organization, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(9) "Lower income household" means a household having an income equal to or less than 80 percent of the median household income for the area as determined by the Department, giving consideration to area household data published by the United States Department of Housing and Urban Development.

(10) "Net worth" means the value of all assets owned in whole or part by household members other than equity in a residence, minus the total debts and obligations of household members, all as measured at the time the prospective account holder applies to establish the IDA.

(11) "Oregon individual development account tax credit" or "tax credit" means a credit against taxes otherwise due under ORS Chapter 316, 317, or 318, as allowed in return for contributions to a fiduciary organization for eventual distribution to individual development accounts established under *ORS 458.685*.

(12) "Personal development plan" means a written plan developed jointly by the fiduciary organization and the prospective account holder for an IDA that is designed to provide the account holder with appropriate financial and asset training, counseling, career or business planning and other services that will increase the independence of the account holder and his/her household through achievement of the IDA's approved purposes. The personal development plan must be in conformance with *ORS 458.680*, these rules and other requirements of the Department.

(13) "Related funds" means contributions to fiduciary organizations for IDA program purposes that do not qualify for tax credits and supplemental funding from the Department for IDA program purposes.

(14) "Reverted funds" means matching IDA deposits that devolve to a fiduciary organization because of the termination or revocation of a person as an account holder or unused tax credit contributions or supplemental funds upon termination or revocation of a fiduciary organization or at the expiration of its program plan.

(15) "Supplemental funding" means funds provided by the Department to fiduciary organizations for program plan purposes.

(16) "Tax credit contributor" means a contributor who receives a corresponding tax credit as allowed in *ORS 315.271*.

(17) "Tax credit contributions" means funds obtained from tax credit contributors who, in return, earn a tax credit

(18) "Trust Land" means all lands held in trust by the United States on behalf of an Indian Tribe or individual Indian.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700*.

Statutes Implemented: *ORS 315.271, ORS 458.670-ORS 458.700*.

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 9-2003, f. & cert. ef. 12-19-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0110 (2007)

813-300-0110 Account Holder and Beneficiary Responsibilities

(1) To be an account holder, eligible persons must apply to a fiduciary organization authorized by the Department and in a manner established by the fiduciary organization as approved by the Department.

(2) Persons selected to be account holders must execute an IDA with their fiduciary organization and, as necessary, with a financial institution, in form and content satisfactory to the Department before they may act as account holders.

(3) Account holders and beneficiaries at all times must comply with applicable law, these rules, applicable orders and directives of the Department and their fiduciary organization, the provisions of their IDA, and their personal development plan.

(4) Account holders at all times must be residents of the State of Oregon. When the account is opened, the applicant to become an account holder must be a member of a lower income household.

(5) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries qualify by residence, income, and age (if applicable) to be account holders or beneficiaries.

(6) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries are complying with the terms of their IDA and its associated personal development plan.

(7) Account holders and their beneficiaries must cooperate fully with the Department and their own fiduciary organization in any review or audit of the IDA, of their personal development plan, or of their eligibility.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
 DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0120 (2007)

813-300-0120 Account Holder Use of Funds

(1) Account holders only may withdraw and use IDA deposits in a manner consistent with their IDA, the relevant personal development plan, these rules and any relevant directives of the Department.

(2) Account holders only may withdraw and use IDA deposits for the following purposes as approved by their fiduciary organization:

(a) For the acquisition of post-secondary education or job training;

(b) If the account holder has established the account for the benefit of a designated beneficiary, for the payment of extracurricular nontuition expenses designed to prepare the designated beneficiary for post-secondary education or job training;

(c) To capitalize a small business;

(d) For the purchase of a primary residence;

(e) With respect to account holder deposits only, for an emergency as set forth in *ORS 458.685(2)(a)*; and

(f) If the account holder has established a qualified tuition savings program account under *ORS 348.841* to *348.873* on behalf of a designated beneficiary, the establishment of an additional qualified tuition savings program account on behalf of the same designated beneficiary.

(3) IDA deposits, including the interest earned thereon, withdrawn by the account holder for an emergency as set forth in *ORS 458.685* and *OAR 813-300-0120(2)(e)* above, must be repaid by the account holder within 12 months.

(4) In addition to payment on the purchase price of a residence pursuant to *OAR 813-300-0120(2)(d)* above, appropriate account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs with respect to such residence.

(5) Account holders may not use IDA deposits to purchase a primary residence if they have owned or held any interest in a residence during the three years prior to making the purchase for which they intend to use IDA deposits. This three year restriction shall not apply in the following:

(a) For displaced homemakers or other individuals who have lost homeownership as a result of divorce.

(b) For a tribal member who has an interest in trust land and still has rights to an allotment under the Dawes Act Public Law 280 and amended in 1891, the 1906 Burke Act and the 1910 Omnibus Act Statutes at Large 24, 388-91, NADP Document A1887, but the tribal member faces multiple ownership of his or her land status and cannot successfully achieve sole ownership in order to receive any equity or collateral from that allotment. If the tribal member solely owns a residence on land known as an allotment and has successfully received sole ownership including the receipt of title status report (TSR) through the Bureau of Indian Affairs, they may not use IDA deposits to purchase a primary residence. If the person can receive more than \$ 2500 in equity or collateral of their allotment, the value over \$ 2500 shall be included in their asset limit.

(6) In capitalizing a small business pursuant to *OAR 813-300-0120(2)(c)* above, IDA deposits may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan approved by the fiduciary organization. To qualify for fiduciary organization approval, the business plan must have been developed by a financial institution, a nonprofit microenterprise program or other qualified agent demonstrating business expertise. The business plan also must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(7) Account holders must repay moneys improperly taken from IDA deposits including the interest earned thereon, when required by their fiduciary organization or by the Department.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 458.670-458.700*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 9-2003, f. & cert. ef. 12-19-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0160 (2007)

813-300-0160 Department Regulation and Enforcement

(1) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(2) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(3) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(4) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(5) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(6) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(7) The Department may require the termination of any individual development account. The Department may require the transfer of any individual development account, including related deposits, from one fiduciary organization to another or to such other fiduciary as the Department determines to be appropriate.

(8) The Department may audit any fiduciary organization, any third-party contractor, and any other program plan partner. The Department also may inspect and copy IDA program documents in the possession or under the control of such entities including, without limitation, any individual development account, any contract or other IDA program agreement, and any personal development plan.

(9) The Department may suspend, terminate or require modifications in personal development plans.

(10) The Department, on its own initiative or at the request of an aggrieved party, may review fiduciary organization decisions with respect to individual development accounts, including but not limited to decisions to withdraw matching funds from individual development accounts or to suspend or terminate matching deposits to deposits made by the account holder.

(11) The Department may suspend, overturn or modify fiduciary organization decisions with respect to individual development accounts including, but not limited to funding decisions.

(10) The Department, on its own initiative or at the request of any aggrieved party, may review other fiduciary organization decisions with respect to program plan matters including, without limitation, decisions made through third-party contractors and other program plan partners.

(11) The Department may suspend, overturn or modify fiduciary organization program plan decisions.

(12) The Department may limit the number of authorized fiduciary organizations eligible to collect tax credit contributions and may limit the amount of tax credit contributions that specific fiduciary organizations may receive in any particular time-period.

(13) The Department may take such other action to regulate and enforce compliance with the IDA program, including these rules, as the Department determines to be necessary or appropriate.

(14) Factors that the Department may consider in taking any regulatory or enforcement action under these rules may include, but are not limited to the following:

- (a) Those factors identified in these rules for the authorization of fiduciary organizations;
- (b) A person or entity's compliance with these rules and other relevant law;
- (c) The efficient and effective operation of the IDA program;
- (d) The integrity of account management; and
- (e) The best interests of account holders and designated beneficiaries.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0170 (2007)

813-300-0170 Administrative Review

(1) Account holders and designated beneficiaries aggrieved by any decision of a fiduciary organization to suspend or terminate the account holder's IDA, any decision by the fiduciary organization to suspend or terminate a personal development plan, any decision by the fiduciary organization to withdraw matching IDA deposits, or any decision by the fiduciary organization requiring the account holder to repay withdrawn IDA deposits, may request administrative review by the Department.

(2) The request for administrative review must be in writing, stating the nature of the decision, the reasons why the aggrieved party disagrees with the decision, and the nature of the requested relief.

(3) The request for administrative review must be delivered to the Department within thirty (30) days from the date that the aggrieved party receives written notice of the decision by the fiduciary organization. The aggrieved party simultaneously shall provide a copy of the request for administrative review to the fiduciary organization.

(4) Upon receipt of an appropriate request for administrative review, the Department will make such investigation of the matter as it determines to be appropriate. In making any such investigation, the Department may require and receive from the parties or other participants in the program plan any additional information or require such other proceedings as it deems appropriate.

(5) The Department will provide its written determination on the request for administrative review following the completion of its investigation. The Department also may issue such preliminary orders as it deems appropriate pending the issuance of its written determination.

(6) In its written determination, or in any preliminary order, the Department may reverse, revise, stay, or approve the decision at issue made by the fiduciary organization.

(7) The Department also may enforce its written determinations and preliminary orders by such action as it deems appropriate.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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CHAPTER 813 OREGON HOUSING AND COMMUNITY SERVICES
DIVISION 300 INDIVIDUAL DEVELOPMENT ACCOUNTS

Or. Admin. R. 813-300-0180 (2007)

813-300-0180 Waiver

The Department may waive or modify any requirements of OAR 813, division 300, unless such waiver or modification would violate applicable federal or state law.

Statutory Authority: *ORS 456.555, ORS 456.625, ORS 458.700.*

Statutes Implemented: *ORS 315.271, ORS 458.670 - ORS 458.700.*

History: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03