

DEPARTMENT OF HUMAN SERVICES
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413
DIVISION 100

SUBSTITUTE CARE – FUNDING ELIGIBILITY

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Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility

413-100-0000

Purpose

(Amended 06/30/11)

The purpose of these rules, OAR 413-100-0000 to 413-100-0345, is to describe the Department's responsibilities and criteria for making Title IV-E eligibility determinations for children in substitute care for whom the Department has placement and care responsibility and Adoption Assistance and Guardianship Assistance Title IV-E eligibility determinations. These determinations are used to ensure proper federal reimbursement.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0010

Eligibility Requirements

(Amended 06/30/11)

- (1) The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, took effect on June 17, 1980. It amended Title IV-E of the Social Security Act, which provides federal payments to the states for *foster care* maintenance and adoption assistance payments made on behalf of certain eligible children. The Adoption and Safe Families Act (ASFA) took effect on November 18, 1997, and enacted further federal requirements for claiming these funds and enhancing permanency for children. The Deficit Reduction Act of 2005 took effect on February 8, 2006, and further clarified the federal requirements for Title IV-E *foster care* maintenance, adoption assistance, medical coverage, and administrative funds.
- (2) The Administration for Children and Families is the federal agency that adopts regulations and monitors the States' Title IV-E *foster care* and adoption assistance programs. Oregon's Title IV-E program is administered by the Department of Human Services. The Department of Human Services acts as the applicant for the *child* and provides Title IV-E *foster care* payments to foster parents on behalf of eligible children, consistent with --
 - (a) The standards established by state and federal legislation and regulations, federal policy, and the State plan for the Title IV-E program; and
 - (b) The established financial and parental deprivation standards for the Aid to Families with Dependent Children (AFDC) program, which was in effect on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

- (3) The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) was signed into law on October 7, 2008 enacting further federal requirements to help youth in *foster care* by promoting permanent families for children and young adults through relative guardianship and adoption and improving education and health care. Additionally --
 - (a) Effective April 1, 2010, the Act delinks Title IV-E eligibility redeterminations from AFDC eligibility; and
 - (b) Effective October 1, 2010, the Act extends federal support for young adults in *foster care*, guardianship, and adoption through 20 years of age.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0020

Definitions

(Amended 06/30/11)

The following definitions apply to OAR 413-100-0000 to 413-100-0345:

- (1) "AFDC" means the Aid to Families with Dependent Children Program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.
- (2) "Assistance unit" means a group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.
- (3) "Child" means a person under 18 years of age.
- (4) "Child care institution" means a private child care institution, or a public child care institution which accommodates no more than 25 children, licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority (with respect to child care institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing or approval. "Child care institution" does not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.
- (5) "Child support" means any voluntary or court-ordered contribution by an absent *parent*. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.
- (6) "Constructive removal" means the non-physical, paper, or legal removal of a *child* who is not living with a *specified relative* when the voluntary custody or voluntary placement agreement is signed or the judicial order is entered. *Constructive removal* is described further in OAR 413-100-0135(3)(b).

- (7) "Countable income" means the amount of available income, including earned and *unearned income* not specifically excluded by OAR 461-140-0040, used to determine eligibility for public assistance.
- (8) "Date the child is considered to have entered foster care" means the earlier of the following:
 - (a) The date that the court found the *child* to be within the jurisdiction of the court under ORS 419B.100; or
 - (b) 60 days from the date of removal.
- (9) "Department" means the Department of Human Services, Child Welfare.
- (10) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.
- (11) "Eligibility month" means --
 - (a) The month in which the court was petitioned or court action was initiated that resulted in the child's "constructive" or "physical" removal from the home of his or her *specified relative*; or
 - (b) The month a voluntary custody or voluntary placement agreement is signed.
- (12) "Family" means for purposes of determining Title IV-E *foster care* eligibility under these rules, the *parent* or parents, stepparent, or relative or relatives from whom the *child* is removed.
- (13) "First cousin once-removed" means a *child* of a first cousin.
- (14) "Foster care" means 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A *child* is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the *child*, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.
- (15) "Foster home", as defined in ORS 418.625(3), means any home maintained by a person who has under the care of the person in such home any *child* under the age of 21 years unattended by the child's *parent* or guardian, for the purpose of providing such *child* with care, food, and lodging. This definition does not include any foster home under the direct supervision of a private child caring agency or institution certified by the Department,

any home under the direct supervision of a custodial *parent* for the purpose of providing respite care, or any developmental disability child foster home as defined in ORS 443.830.

- (16) "Incapacity" means a physical or mental defect, illness, or impairment that reduces substantially or eliminates the individual's ability to support or care for the *child* and may be expected to last a period of at least 30 days.
- (17) "Indian child" means any unmarried person who is under age 18 and is either:
 - (a) A member of an Indian tribe; or
 - (b) Eligible for membership in an Indian tribe and the biological *child* of a member of an Indian tribe.
- (18) "Need" means, using the Department AFDC standards, the monetary amount by which an individual or family's requirements exceeds all of the income and resources available to the individual or *family*.
- (19) "Nunc pro tunc order" means, under Oregon law, a court order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.
- (20) "Parent" means, under the AFDC rules in effect on July 16, 1996, the biological or legal (step or adoptive) mother or father of a person.
 - (a) If the mother lives with a male, who either she or he claims is the father of the *child*, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.
 - (b) The Voluntary Acknowledgment Form (HS 45-21, available from Vital Statistics) jointly signed by the mother and putative father, is a legal document that establishes paternity and allows the father's name to be added to the birth certificate.
 - (c) A stepparent relationship exists if:
 - (A) The person is legally married to the child's biological or adoptive *parent*; and
 - (B) The marriage has not been terminated by legal separation, divorce or death.
 - (d) A legal adoption erases all prior legal and blood relationships and establishes the adoptive *parent* as the legal *parent*. However, the biological *parent* is also considered a *parent* if both of the following are true:

- (A) The *child* lives with the biological *parent*; and
 - (B) The legal *parent*, who is the adoptive *parent*, has given up care, control, and supervision of the *child*.
- (21) "Payment or need standard" means the amount set by the Department as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the payment or need standard in effect on July 16, 1996.
- (22) "Physical removal" means the removal of a *child* that occurs when a *child* is placed in substitute care, who was living with the *specified relative* when the voluntary custody or voluntary placement agreement was signed or court proceedings were initiated.
- (23) "Removal home" means the home from which the *child* was removed as a result of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).
- (24) "Resource" means any personal or real property that is or can be made available to meet the *need* of the *assistance unit* that the Department does not specifically exclude from consideration.
- (25) "Specified relative" means:
- (a) A *parent* as defined in this rule;
 - (b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological *parent* are half-blood relatives);
 - (c) A sibling, aunt, uncle, nephew, niece, first cousin, and *first cousin once-removed*;
 - (d) A person who legally adopts a *child* or the *child's parent*, other legally adopted children of such persons, and any persons related to the *child* through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;
 - (e) A stepmother, stepfather, stepbrother, or stepsister; or
 - (f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.
- (26) "Unearned income" means all income that does not directly result from an individual's employment or self-employment.

(27) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.010, 409.050, 418.005, 418.625

Stats. Implemented: ORS 409.010, 409.050, 418.005, 418.625

413-100-0030

Certification Documentation Requirements for Title IV-E Foster Care Eligibility

(Amended 06/30/11)

- (1) Documentation of a certificate or license is required in the case file, certification file, or licensing file.
- (2) The following documentation is required for an out-of-state *foster home* placement:
 - (a) Verification that the out-of-state *foster home* or child caring agency is certified, licensed, or approved by the agency in that state which is responsible for licensing or approval of such facilities; or
 - (b) In states where relative homes are not certified, a statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period of time for which a formal license or certificate would be issued for that home and a copy of the verification that a criminal history check was completed and approved.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0060

Title IV-E Reimbursable Placements and Payments

(Amended 06/30/11)

- (1) To be Title IV-E eligible and reimbursable, a *child* or *young adult* must be placed in a Title IV-E reimbursable placement.
- (2) Reimbursable Placements. There are four types of out-of-home placements that meet the Title IV-E *foster care* definition of a reimbursable placement. They are:
 - (a) The home of a certified non-relative foster parent;
 - (b) The home of a certified relative caregiver;
 - (c) A private, non-medical group home or crisis residential center licensed by the state; or

- (d) A public non-medical group home or child caring agency with a licensed capacity of less than 26 beds.
- (3) *Foster care* maintenance payments are made only on behalf of an eligible *child* or *young adult* who is:
- (a) In the foster family home of an individual, whether the payments are made to such individual, a public or private *child* placement, or a child caring agency; or
 - (b) In a *child care institution*, whether the payments are made to such institution, a public or private *child* placement, or a child caring agency.
- (4) Reimbursable Payments. Title IV-E *foster care* maintenance payments for a *child* or *young adult* in *foster care* may cover expenses listed in the following subsections:
- (a) The cost for and the cost of providing food, clothing, shelter, daily supervision, school supplies, a *child* or young adult's personal incidentals, liability insurance with respect to the *child* or *young adult*, and reasonable travel to the *child* or young adult's home for visitation with *family* or other caretakers, and reasonable travel for the *child* to remain in the school in which the *child* is enrolled at the time of placement. Local travel associated with providing the items listed in this subsection also is an allowable expense.
 - (b) For a *child care institution*, the Title IV-E *foster care* maintenance payment must include reimbursement for the institution's reasonable administrative and operating expenses required to provide the items described in subsection (a) of this section.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0070

Application for Title IV-E Foster Care

(Amended 06/30/11)

- (1) A *child* or *young adult* in substitute care for whom the Department has responsibility for placement and care must be referred for a Title IV-E eligibility determination.
- (2) Under no circumstances may Title IV-E *foster care* eligibility or reimbursement be authorized on behalf of any *child* or *young adult* prior to the establishment of eligibility by the Department's Title IV-E Eligibility Specialist. A *child* or *young adult* may not be Title IV-E eligible based on presumed eligibility.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0080

Effective Eligibility Date

(Amended 06/30/11)

The effective date of a *child* or young adult's Title IV-E eligibility is the date when all of the other eligibility criteria prescribed in OAR 413-100-0020 to 413-100-0320 are met and one of the following applies:

- (1) The date of the *child* or young adult's placement in substitute care, if the Department is responsible for the *child* or young adult's placement and care.
- (2) The first of the month in which the Department obtains responsibility for the *child* or young adult's placement and care if the *child* or *young adult* enters substitute care prior to the Department obtaining placement and care responsibility.
- (3) The first of the month in which the "reasonable efforts" finding is made when the court delays making the finding, as long as the Reasonable Efforts to Prevent the Removal finding is obtained within 60 days of placement.
- (4) When the Department has retained responsibility for placement and care and the *child* or *young adult* is returning to *foster care* from a trial home visit, the placement date or the date that the *child* or *young adult* meets all Title IV-E eligibility criteria after a Title IV-E redetermination of eligibility under OAR 413-100-0270 is completed.
- (5) When the Department has retained responsibility for placement and care and the court has retained wardship, and the *child* or *young adult* returning to *foster care* is not considered to have been on a trial home visit, the date the Department completes a new Title IV-E eligibility determination under these rules, OAR 413-100-0000 to 413-100-0345.
- (6) The first of the month in which the voluntary placement agreement or voluntary custody agreement is signed by each party, if placement occurs prior to the signing of the agreement.
- (7) The date of placement in a certified relative caregiver home when the relative has received a TANF non-needy (NNR) grant and repayment is authorized to the TANF agency.
- (8) The effective certification date of the relative caregiver's home when a TANF non-needy (NNR) grant has not been received.
- (9) The effective certification date when the Department of Human Services Financial Services unit has reimbursed the Department of Human Services Office of Self Sufficiency Programs for the relative caregiver's TANF non-needy (NNR) grant retroactive to the certification date.

(10) The first of the month in which a non-certified home becomes certified, if the *child* or *young adult* was placed in the home at that time.

(11) When applicable, the date the *child* or *young adult* is no longer receiving SSI benefits.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0090

Retroactive Eligibility

(Amended 06/15/10)

(1) Title IV-E eligibility may be opened and claimed retroactively for up to two years when the requirements of one of the following subsections are met:

(a) An otherwise eligible child's application was held while awaiting financial information.

(b) A *nunc pro tunc order* is issued that gives retroactive effect to the judicial finding or findings included in the order, but only if a court transcript of the court hearing is provided that documents that the judicial finding was made in the original court hearing.

(c) A referral for a Title IV-E *foster care* eligibility determination was not timely.

(d) Information becomes available which proves that the denial of the child's Title IV-E eligibility, the determination that the placement was not Title IV-E reimbursable, or the determination that the cost of the child's care was temporarily non-reimbursable by the Title IV-E specialist was incorrect.

(2) The effective date of eligibility for cases pending for judicial finding requirements under subsections (1)(a) and (1)(b) of this rule is:

(a) The first of the month in which the judicial finding is made; or

(b) The first of the month in which an existing order is modified to reflect that a Reasonable Efforts to Prevent removal finding previously was made as long as the modification is made within 60 days of placement and a transcript of the court hearing is provided that documents the judicial finding was made in the original court hearing.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0110

Effective Closure Date

(Amended 06/30/11)

The effective closure date for cases no longer meeting Title IV-E eligibility criteria is the earliest of the following:

- (1) The end of the month in which eligibility ceased to exist.
- (2) Retroactive to the end of the month in which eligibility ceased to exist, even if the information that ended the *child* or young adult's eligibility became known to the Department after the fact.
- (3) The date that the custodial or non-custodial *parent* or the parents establish residency in the home in which the *child* or *young adult* resides if one or both parents are providing caretaking responsibility for the *child* or *young adult*.
- (4) The date the foster *parent* or relative caregiver's certificate of approval or a child caring agency's license expires or is revoked.
- (5) The 181st day of placement for a voluntary placement if a court has not approved the continuation of the placement within 180 days of the date that the *child* or *young adult* was placed. The placement date, not the date that the agreement was signed, begins the 180-day count.
- (6) The date of the *child* or young adult's placement in a facility that is considered to be outside the scope of *foster care*.
- (7) The date that the Department ceases to have responsibility for the placement and care of the *child* or *young adult*.
- (8) The date the *child* is emancipated.
- (9) The date the *young adult* no longer meets the age requirements for Title IV-E eligibility under OAR 413-100-0230.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0120

Verification of Eligibility

(Amended 06/30/11)

- (1) When the Department determines a *child* or *young adult* is ineligible for Title IV-E *foster care*, based on the information available at the time of the initial determination, the *child*

or *young adult* is not eligible for Title IV-E *foster care* maintenance payments for the entire duration of that substitute care episode.

- (2) To verify Title IV-E *foster care* eligibility, the Department must obtain acceptable documentary evidence to support certain eligibility factors. The Department determines which eligibility factors require verification and the types of acceptable documentary evidence. The Department may:
 - (a) Decide to require verification of additional eligibility factors; and
 - (b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.
- (3) Verification is required for the following eligibility factors:
 - (a) Residency;
 - (b) U.S. Citizenship status;
 - (c) Age;
 - (d) Removal from the home of the *specified relative*;
 - (e) Judicial language in Court Orders;
 - (f) Countable *family, child, or young adult* income and benefits;
 - (g) Parental deprivation;
 - (h) *Family, child, or young adult* resources; and
 - (i) The *child or young adult* is placed in a certified foster or relative caregiver's home or a licensed child caring agency.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0130

Eligibility Determinations - AFDC Linkage

(Amended 06/30/11)

- (1) For an initial Title IV-E eligibility determination, the Department reconstructs the facts of the *removal home* to determine if the *child or young adult*, in the *eligibility month*, received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made.

- (2) AFDC Relatedness. The *child* or *young adult* meets the "AFDC relatedness" test if the requirements of one of the following subsections are met:
- (a) The *child* ---
 - (A) Lived with the *specified relative* within six months of removal;
 - (B) Received or would have been eligible to receive AFDC in the *removal home* under the rules in effect on July 16, 1996, in the *eligibility month* had an application been made; and
 - (C) Remains within the *resource* limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.
 - (b) The *young adult* ---
 - (A) Lived with the *specified relative* within six months of removal prior to age 18;
 - (B) Received or would have been eligible to receive AFDC in the *removal home* under the rules in effect on July 16, 1996, in the *eligibility month*, had an application been made; and
 - (C) Remains within the *resource* limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

Stat. Auth.: ORS 409.010, 409.050, 412.144, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0135

Eligibility Requirements - Living with a "Specified Relative" and "Removal"

(Amended 12/28/11)

- (1) Specified Relative Requirements. To meet Title IV-E eligibility requirements the *child* or *young adult*, at the time of the child's removal from his or her home, must have been living with and removed from the same *specified relative*, as defined in OAR 413-100-0020.
- (2) Removal Requirements for a child age 17 or younger. To meet Title IV-E eligibility requirements, the child's removal from the home must occur pursuant to:
 - (a) A voluntary custody agreement or voluntary placement agreement, signed by a *parent* or *specified relative*, that results in the "physical" or "constructive" removal of the *child* from the home; or

- (b) A judicial order that requires the child's "physical" or "constructive" removal from the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*.
- (3) Removal Requirements for a young adult age 18, 19 or 20. To meet Title IV-E eligibility requirements, the young adult's removal from the home must occur pursuant to:
- (a) Court ordered removal prior to age 18. A judicial order that requires the child's "physical" or "constructive" removal from the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*. No new court ordered removal is required at the age of 18 or older to remain eligible for Title IV-E *foster care* maintenance payments, as long as the *young adult* remains in continuous *foster care*.
 - (b) A voluntary placement agreement prior to age 18, signed by a *parent* or *specified relative*, that results in the "physical" or "constructive" removal of the *child* from the home. No new voluntary placement agreement is required after the *young adult* attains the age of 18 for Title IV-E purposes as long as the *young adult* remains in continuous *foster care*.
- (4) Removal Home Requirements. Effective June 9, 2006, for Title IV-E eligibility purposes, the child's *removal home* must meet the requirements of one of the following subsections:
- (a) Physical Removal. The Department considers a child's removal a *physical removal* when the judicial order or the signing of a voluntary custody or voluntary placement agreement results in the removal of the *child* from the physical custody of the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*.
 - (b) Constructive Removal. The Department considers a child's removal a *constructive removal*:
 - (A) When the *child* is living in the home of an interim caretaker (relative or non-relative) at the time of removal but the *child* lived with a *parent* or *specified relative* within the six months prior to the judicial order, voluntary custody agreement, or voluntary placement agreement which resulted in the *constructive removal* of the *child* from the *parent* or *specified relative* and gave the Department responsibility for the placement and care of the *child*; or
 - (B) When the *parent* or *specified relative* and the *child* live in another relative's home, the Department considers the child's removal a *constructive removal* from the *parent* or *specified relative* if:
 - (i) The *parent* or *specified relative* moves out of the home within the six months prior to the removal;

- (ii) The *child* remains in the relative's home; and
- (iii) Within six months of the date the *parent* or *specified relative* left the relative's home there is a judicial order or voluntary custody or placement agreement that results in the removal of the *child* from the *parent* or *specified relative* and gives the Department responsibility for the placement and care of the *child*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005, 418.625

413-100-0150

Parental Deprivation

(Amended 12/28/11)

- (1) The continued absence of one or both birth or adoptive parents, or a stepparent from the home constitutes the basis for deprivation of parental support or care.
- (2) Deprivation of parental support in relation to the home from which the *child* is removed exists when:
 - (a) Death of a *parent*. Either *parent* of a *child* is deceased.
 - (b) Continued absence of the *parent* from the home. There is a Continued Absence of one or both parents when:
 - (A) One or both parents are out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the *child*;
 - (B) There is evidence of continued absence of over 30 days duration; or
 - (C) Predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.
 - (c) Physical or mental incapacity. *Incapacity* is documented as parental deprivation in a one-parent or two-parent household as follows:
 - (A) One or both parents' receipt of Supplemental Security Income (SSI) or being found eligible for Old-Age, Survivors, and Disability Insurance (OASDI) or SSI based on disability or blindness;
 - (B) One or both parents receive Social Security Benefits (SSB) based on disability or blindness; or

- (C) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the *child*.
- (d) Unemployment or underemployment may be documented as parental deprivation in a two-parent household if each *parent* meets one of the following criteria:
 - (A) Is working less than 100 hours per month; or
 - (B) Has a temporary one-month increase to over 100 hours, but:
 - (i) Worked less than 100 hours in each of the two previous months; and
 - (ii) Is expected to work less than 100 hours in the following month.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0160

AFDC Eligibility - Financial Need

(Amended 06/30/11)

- (1) A *child* removed from the home of a *specified relative* who was not receiving AFDC requires the Department to reconstruct the child's situation to determine whether under rules in effect on July 16, 1996 the *child* was AFDC eligible.
- (2) If the *child* is physically removed from a parent's home:
 - (a) The Department ---
 - (A) Considers the income and resources of the *parent*, parents, or stepparent from whom the *child* was removed in the *eligibility month*;
 - (B) Determines the countable gross *earned income* of all the *family* members in the *assistance unit* including the \$90 standard *earned income* deduction, when applicable;
 - (C) Determines the countable *unearned income* of all the *family* members in the *assistance unit* including the \$50 *child support* deduction, when applicable; and
 - (D) Excludes SSI or a combination of SSI and SSA benefits as *countable income*. The Department excludes the *parent* or *child* receiving SSI or a

combination of SSI and other Social Security benefits and excludes them from the number in the household for AFDC calculations.

- (b) An *assistance unit* is not eligible when all available countable earned and *unearned income* (in the *eligibility month*) exceeds the Adjusted Income *payment or need standard* under rules in effect on July 16, 1996.
- (3) If a *child* is removed from a minor *parent* who resides in his or her parents' home, the minor parent's parents live together, and the minor *parent* is under age 18, has never married, and is not legally emancipated, the assets of the parents of the minor *parent* are deemed as follows:
- (a) The resources of the parents of the minor *parent* are excluded.
 - (b) The income of the parents of the minor *parent* is deemed available to the minor *parent* if the minor *parent* and his or her *child* live with the parents of the minor *parent*.
 - (c) The amount of the deemed income of the parents of the minor *parent* is determined as follows:
 - (A) When applicable, a \$90 *earned income* deduction is allowed.
 - (B) The needs of the parents of the minor *parent* and their dependents, living in the same household and not included in the benefit group, are deducted at the AFDC Payment Standard.
 - (C) Amounts paid to the legal dependents of the parents of the minor *parent* not living in the household are deducted.
 - (D) Payments of alimony and *child support* are deducted.
 - (E) Any remaining income is countable deemed income to the minor *parent*.
- (4) If a *child* is removed, physically or constructively, from the home of a *specified relative* who is not a *parent* of the *child*, the Department ---
- (a) Considers the *child* as a household of one;
 - (b) Determines the countable earned and *unearned income* and resources available to the *child*;
 - (c) Disregards the income and resources of each caretaker *relative*;
 - (d) Includes the *child* placed in substitute care in the household of one's *assistance unit*;

- (e) Denies Title IV-E eligibility when all available *countable income and unearned income* (in the *eligibility month*) exceeds the No Adult *payment or need standard* for the ADC-BAS and Medically Needy programs under rules in effect on July 16, 1996.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0170

AFDC Eligibility -- Resources

(Amended 06/15/10)

- (1) An *assistance unit* is not eligible if in the *eligibility month* all available resources not excluded by Department rules in effect on July 16, 1996 exceed the *resource* limit.
- (2) The *resource* limit is \$10,000.00. An *assistance unit* with resources in excess of \$10,000.00 is ineligible. The most common resources are motor vehicles and money, including cash, bank accounts, and federal and state income tax refunds.
- (3) If an *assistance unit* has a licensed motor vehicle, only the first \$1,500 of equity value of the vehicle is exempt. Any equity over \$1,500 is counted toward the \$10,000.00 *resource* limit.

Stat. Auth.: ORS 409.010, 409.050, 412.144, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0180

AFDC Eligibility -- Earned Income of Students

(Amended 06/30/11)

- (1) A *child* or *young adult* with a GED or high school diploma and employed must have his or her earnings considered as income that reduces the maintenance payment, even if they are attending a secondary education program. Otherwise, the *child* or *young adult* is not eligible for Title IV-E *foster care* eligibility.
- (2) Effective April 1, 2010, section (1) of this rule no longer applies to Title IV-E eligibility redeterminations.
- (3) *Earned income* is not counted for:
 - (a) A *child*, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or

- (b) A *child*, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses), and not employed full-time.

Stat. Auth.: ORS 409.010, 409.050, 412.144, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0190

AFDC Eligibility -- Unearned Income

(Amended 06/30/11)

- (1) For Title IV-E *foster care* purposes, all *unearned income* and benefits potentially available to the *child* must be counted against his or her maintenance payment on a dollar-for-dollar basis.
- (2) Benefits awarded to the *child* for which the Department is not yet payee and benefits not readily available to the *child* still must be counted.
- (3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.
- (4) The following are examples of countable *unearned income*:
 - (a) All Social Security benefits;
 - (b) Veteran's benefits;
 - (c) Cash contributions from any source;
 - (d) State or private accident or disability payments;
 - (e) Personal injury settlements;
 - (f) Lump sum income (except SOIL and IRS recoveries and lump sum support payments applied in the month of receipt to offset prior months Title IV-E maintenance costs);
 - (g) Effective April 1, 2010, subsection (f) of this section no longer applies to Title IV-E eligibility redeterminations.
 - (h) *Child support*;
 - (i) Railroad Retirement and other pensions;

- (j) Annuities, dividends, interest, royalties.

Stat. Auth.: ORS 409.010, 409.050, 412.144, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0200

AFDC Eligibility - Lump Sum Benefits

(Amended 06/30/11)

- (1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid to the Department must be applied retroactively to reimburse the Department from the date paid placement was initiated. The Department must be the representative payee. This can be accomplished by contacting the Children's Benefit Unit of the Department.
- (2) A Title IV-E eligible *child* receiving lump sum benefits exceeding the cost of care is ineligible for Title IV-E *foster care* during the months that the calculated lump sum exceeds the *foster care* maintenance payment.
- (3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0210

U.S. Citizenship and Qualified Aliens

(Amended 06/30/11)

A Title IV-E eligible *child* or *young adult* must be:

- (1) A United States citizen; or
- (2) A qualified alien is defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193. Under Section 431 of PRWORA a qualified alien's access to federal public benefits is restricted for five years beginning on the date of the alien's entry into the United States, unless subsection (b), (c), or (d) of this section applies. Under PRWORA a qualified alien is --
 - (a) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act");
 - (b) An alien granted asylum under Section 208 of the Act;

- (c) A refugee admitted to the United States under section 207 of the Act;
- (d) An alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;
- (e) An alien whose deportation is being withheld under Section 243(h) of the Act;
- (f) An alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;
- (g) If the *child* is a qualified alien who is placed with a qualified alien or United States citizen, the date the *child* entered the United States is irrelevant and the five-year restriction on federal public benefits does not apply; or
- (h) If the *child* is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the *child* would be subject to the five-year residency requirement for federal public benefits at section 403(a) of PRWORA unless the *child* is in one of the excepted groups identified at section 403(b).

Stat. Auth.: ORS 409.010, 409.050, 412.144, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0220

Residency

(Amended 06/30/11)

There is no minimum time-of residency requirement for a *child* to be eligible for Title IV-E *foster care*. There need only be the intent that the *child* reside in the State of Oregon.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0230

Age Requirements

(Amended 06/30/11)

To be Title IV-E eligible, at the time of removal an individual must be --

- (1) A *child* 17 years of age or younger.
- (2) At redetermination --
 - (a) A *child*, 17 years of age or younger;

- (b) *A young adult, 18 years of age, regularly attending school or training, and on track to obtain a high school diploma or equivalent.*
 - (A) "Attending" means the student's full-time or half-time school attendance as defined by the school.
 - (B) A student is considered to be *attending* school for the full month in which the student completes or discontinues school or training.
 - (C) "Regularly attending school" means the student is enrolled in and *attending* any of the following:
 - (i) A school in grade 12 or below;
 - (ii) GED classes in lieu of high school; or
 - (iii) A course of vocational or technical training in lieu of high school.
 - (D) A *child* is considered to be *regularly attending school* during a training program, vacation, illness, or *family* emergency.
- (c) *A young adult, 18 through 20 years of age, who is --*
 - (A) Completing his or her secondary education or a program leading to an equivalent credential;
 - (B) Enrolled in an institution that provides post-secondary or vocational education;
 - (C) Participating in a program or activity designed to promote, or remove barriers to employment;
 - (D) Employed for at least 80 hours per month; or
 - (E) Determined unable to perform any of the activities in paragraphs (A) to (D) of this section due to a physical condition, mental disability or physical disability documented by medical evidence and regularly updated information in the case plan of the *young adult*.

Stat. Auth.: ORS 409.010, 409.050, 412.144, 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144, 418.005

413-100-0240

Judicial Finding Requirements for Title IV-E Eligibility

(Amended 06/30/11)

- (1) Contrary to the Welfare or Best Interest Findings Requirement. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a *child* is not Title IV-E eligible for the duration of the substitute care episode, unless the first court ruling that addresses the removal includes a determination to the effect that continued residence in the home would be contrary to the welfare of the *child* or that placement would be in the best interest of the *child*.
- (2) Reasonable Efforts Finding at Removal. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a *child* is not Title IV-E eligible for the duration of the substitute care episode, unless a judicial finding is made, no later than 60 days from the date the *child* was removed, to the effect that reasonable efforts have been made to prevent or eliminate the need for removal or that reasonable efforts are not required to prevent a child's removal from the home or to reunify the *child* and *family*.
- (3) When a court determines that reasonable efforts to return the *child* home are not required, a permanency hearing is held within 30 days of that determination, unless the requirements of the permanency hearing were fulfilled at the court hearing in which the court determined that reasonable efforts to reunify the *child* and *family* are not required. Reasonable efforts to prevent a child's removal from the home or to reunify the *child* and *family* are not required when the Department obtains a judicial finding that such efforts are not required because one or more of the following subsections applies:
 - (a) The court has determined that the *parent* has subjected the *child* to aggravated circumstances;
 - (b) As described in ORS 419B.340, the court has determined that the *parent* has been convicted of:
 - (A) Murder of another *child* of the *parent*;
 - (B) Voluntary manslaughter of another *child* of the *parent*;
 - (C) Aiding or abetting, attempting, conspiring, or soliciting to commit an offense described in subparagraphs (A) or (B) of this subsection;
 - (D) A felony assault that results in serious bodily injury to the *child* or another *child* of the *parent*; or
 - (c) The parental rights of the *parent* with respect to a sibling have been terminated involuntarily.
- (4) Annual Reasonable Efforts Finding.

- (a) If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement unless a judicial finding is made, no later than 12 months from the *date the child is considered to have entered foster care*, to the effect that reasonable efforts have been made for reunification of the *family* or to achieve the permanency plan, the *child* is temporarily ineligible for Title IV-E *foster care*. The *child* remains temporarily ineligible for Title IV-E *foster care* until such a judicial finding is made.
 - (b) At least once every 12 months thereafter while the *child* or *young adult* is in *foster care*, unless a judicial determination of reasonable efforts to finalize a permanency plan is made, the *child* or *young adult* is temporarily ineligible for Title IV-E *foster care*. The date of the *child* or young adult's last judicial determination determines the date the next judicial determination is due. The *child* or *young adult* remains temporarily ineligible for Title IV-E *foster care* until such a judicial finding is made.
- (5) Judicial orders concerning placements.
- (a) If the court disagrees with the Department's placement recommendation, Title IV-E eligibility may continue if --
 - (A) The court heard the relevant testimony and will continue to work with all parties, including the Department, to make appropriate placement decisions; and
 - (B) The Department continues to have responsibility for the placement and care of the *child* or *young adult*.
 - (b) If the court recommends a placement or names the *child* or young adult's placement in the court order as an endorsement or approval of the Department's placement choice the *child* or young adult's Title IV-E *foster care* eligibility is not affected.
- (6) Nunc Pro Tunc Orders. The Department considers a *nunc pro tunc order* to correct the omission of a "best interest" or "reasonable efforts" finding only if a court transcript accompanies the order and verifies that the judicial determination was made at the original removal hearing.
- (7) A court order that references state or tribal law to substantiate judicial determinations is not acceptable, even if the law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal may be ordered only after reasonable efforts have been made.

Stat. Auth.: ORS 409.010, 409.050, 418.005, 419B.340

Stats. Implemented: ORS 409.010, 409.050, 418.005, 419B.340

413-100-0250

Voluntary Custody and Voluntary Placement Agreements

(Amended 06/30/11)

- (1) In accordance with ORS 412.084, when a *child* is in substitute care pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, the Department must, within 180 days of the date of placement, obtain a judicial finding to the effect that continuation of the placement is in the best interest of the *child*. This best interest finding also is a requirement for continuation of the child's Title IV-E eligibility for more than 180 days. This judicial finding may be obtained in a court hearing or by a letter to the court that results in an ex parte court order containing the best interest finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required for Title IV-E eligibility.
- (2) If the finding in section (1) of this rule is not made within the first 180 days after the placement, the *child* or *young adult* becomes ineligible for Title IV-E 181 days after the placement and is not Title IV-E eligible for the duration of the substitute care episode.

Stat. Auth.: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180, 419B.185

Stats. Implemented: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180, 419B.185

413-100-0260

Voluntary Relinquishments

(Amended 06/30/11)

- (1) A *child* in placement based on a voluntary relinquishment is Title IV-E eligible if:
 - (a) Within 60 days of placement, or within six months of a voluntary relinquishment to a private adoption agency, the first court order issued has a judicial finding to the effect that remaining in the home would be "contrary to the welfare" of the *child* or "placement is in the child's best interest"; and
 - (b) Within 60 days of placement, there is a judicial finding to the effect that "reasonable efforts" have been made to prevent or eliminate the need for removal from the home.
- (2) When all other eligibility criteria are met, Title IV-E eligibility is effective the first of the month in which the judicial finding was made.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-100-0270

Title IV-E Foster Care Eligibility Redeterminations

(Amended 06/30/11)

- (1) The Department must redetermine, for each month a *child* or *young adult* is in substitute care, whether the *child* or *young adult* continues to be Title IV-E eligible. This redetermination must be completed no later than 12 months from the *date the child is considered to have entered foster care*, and every 12 months thereafter for the duration of the *child* or young adult's substitute care episode. Eligibility may resume the first of the month in which all eligibility criteria are met.
- (2) A *child* or *young adult* may lose and regain eligibility. The loss of eligibility in any one month does not permanently end the *child* or young adult's eligibility in future months.
- (3) Title IV-E Specialists must redetermine the *child* or young adult's circumstances to ensure the *child* or *young adult* continues to meet all of the following criteria for continued Title IV-E eligibility:
 - (a) The *child* or *young adult* must continue to meet the age requirements under OAR 413-100-0230;
 - (b) The judicial finding requirements under OAR 413-100-0240 continue to be met; and
 - (c) The *child* or *young adult* was placed in a fully certified foster or relative caregiver home or with a licensed child caring agency during the redetermination period.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0280

Redetermination of Deprivation at Relinquishment or Termination of Parental Rights

(Amended 06/30/11)

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) delinked Title IV-E eligibility redeterminations from AFDC eligibility, effective April 1, 2010. A redetermination of deprivation at relinquishment or termination of parental rights is no longer required.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-100-0300

Parental Referral to Division of Child Support

(Amended 06/30/11)

Unless an exception is granted pursuant to Child Welfare Policy I-E.7.1, "Child Support Referrals", OAR 413-100-0800 to 413-100-0850, every case involving a Title IV-E eligible *child* must be referred to the Division of Child Support of the Oregon Department of Justice.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0310

Title XIX Medicaid Eligibility

(Amended 06/30/11)

A *child* found Title IV-E eligible is categorically eligible for Title XIX Medicaid benefits, as described in OAR 413-100-0430, except that a *child* found Title IV-E eligible who does not have a social security number is ineligible for Title XIX Medicaid benefits until a social security number application has been completed.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

413-100-0320

Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid

(Amended 06/30/11)

- (1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible *child* in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.
- (2) For a Title IV-E *foster care* eligible *child* being placed outside of Oregon, the Title IV-E Specialist must notify and provide the following documentation to the foster or adoptive parents:
 - (a) Confirmation of the child's Title IV-E eligibility;
 - (b) Notification of the discontinuance of the child's Oregon Medicaid coverage; and
 - (c) A letter stating the child's eligibility under COBRA for applying for Title XIX Medicaid coverage in the child's new state of residence.

Stat. Auth.: ORS 409.010, 409.050, 418.005

Stats. Implemented: 409.010, 409.050, 418.005

413-100-0335

Adoption Assistance Title IV-E Eligibility Determination

(Amended 06/30/11)

- (1) To be eligible for Title IV-E adoption assistance through age 17, the *child* must:
 - (a) Meet the age and education requirements specified in OAR 413-100-0230; and
 - (b) Meet one of the *applicable child* eligibility criteria as specified in section (2) of this rule; or
 - (c) Meet one of the *non-applicable child* eligibility criteria specified in section (4) of this rule.
 - (d) Effective October 1, 2011, to be eligible for an extension of Title IV-E adoption assistance through age 20, the *young adult* must also be part of an adoption assistance agreement that was made effective after the *child* reached 16 years of age, but before the *child* attained 18 years of age.
- (2) For the purposes of this rule, effective October 1, 2009, an "applicable child", as defined in section 473(e) of the Social Security Act, is a *child* who meets the requirements of at least one of the following subsections:
 - (a) The child's oldest age attained in the current federal fiscal year (October 1 through September 30) meets the *applicable child* age requirements;
 - (A) The *applicable child* age requirements are set forth in the following document, which by this reference, is incorporated into this rule; Applicable Child - Age Requirements.
 - (B) The Department maintains this document on the Department's Child Welfare policy website at http://www.dhs.state.or.us/policy/childwelfare/cross_index.htm. A printed copy of this document may be obtained by contacting the Department of Human Services, Children, Adults and Families, Federal Compliance Unit, Attn: Title IV-E Federal Compliance Specialist, 500 Summer Street NE, Salem, Oregon 97301.
 - (b) The *child* has been in *foster care* under the responsibility of the Title IV-E agency for any 60 consecutive month period prior to finalization of the adoption; or
 - (c) The *child* is a sibling of another *child* the Department has determined is an *applicable child* and both children are placed in the same adoption arrangement.
 - (d) A *child* found to be an *applicable child* under subsections (2)(a) to (c) of this section must meet the *applicable child* eligibility requirements, inclusive of the

special needs criteria, described in section 473(a)(2)(A)(ii) of the Social Security Act to be eligible for Title IV-E adoption assistance.

- (3) An *applicable child* is not eligible for Title IV-E adoption assistance when:
- (a) The *child* is not a citizen or resident of the United States; and
 - (b) The *child* was adopted outside of the United States or was brought into the United States for the purpose of being adopted.
 - (c) A *child* that is not a citizen or resident of the United States, and was adopted outside of the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for Title IV-E adoption assistance for any subsequent adoptions if the initial adoption fails and the *child* is placed into *foster care*. For the subsequent adoption, the *child* will have to meet the Title IV-E eligibility requirements under this rule.
- (4) A *child* who does not meet the *applicable child* criteria in section (1) must qualify under one of the following subsections:
- (a) The child's eligibility for Title IV-E *foster care* was established at the time of removal.
 - (b) The *child* meets all eligibility requirements for Supplemental Security Income (SSI) benefits.
 - (c) The child's payments in a certified *family* home or private child caring agency are covered by the *foster care* maintenance payment being made for his or her minor *parent*.
 - (d) The child's eligibility for an adoption assistance payment was established for a prior adoption and the *child* is now available for adoption because of one of the following:
 - (A) The prior adoption has been dissolved and the parental rights of each adoptive *parent* have been terminated or relinquished; or
 - (B) Each adoptive *parent* of the *child* has died.
- (5) Private Agency Adoptions: To be eligible for Title IV-E adoption assistance, a *child* voluntarily relinquished to a public or private nonprofit agency must meet all of the following criteria:
- (a) The *child* meets the eligibility criteria for Supplemental Security Income (SSI);
 - (b) The *child* is in a subsequent adoption, if he or she received Title IV-E adoption assistance in a previous adoption;

- (c) The *child* must meet the Title IV-E AFDC eligibility requirements (as described in OAR 413-100-0130 through 413-100-0230); and
 - (d) The *child* must meet Judicial Removal requirements, as described below:
 - (A) The *child* must be voluntarily relinquished either to the State agency (or another public agency [including Tribes] with whom the State has a Title IV-E agreement), or to a private, nonprofit agency; and
 - (B) Within six months of the date the *child* last lived with a *specified relative*, a petition must be filed with the court to remove the *child* from the home; and
 - (C) The court must make a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.
 - (e) The *child* must meet the special needs criteria (as described in OAR 413-130-0020).
 - (f) Failure to meet any of the requirements listed above will result in a denial of Title IV-E adoption assistance eligibility.
- (6) Independent Adoptions. To be eligible for Title IV-E adoption assistance, a *child* voluntarily relinquished to an individual must meet the following criteria:
- (a) The *child* meets the eligibility criteria for Supplemental Security Income (SSI); or
 - (b) The *child* is in a subsequent adoption and he or she received Title IV-E adoption assistance in a previous adoption.
 - (c) The *child* must meet the special needs criteria (as described in OAR 413-130-0020).
- (7) Eligibility after Removal from an Adoption Assistance Placement.
- (a) Finalized Adoption: When a *child* in a finalized adoption is placed in substitute care:
 - (A) The local office must open a new case for the *child*; and
 - (B) The Title IV-E Specialist must perform an eligibility determination for Title IV-E *foster care*, based on the removal from the adoptive parents.
 - (b) Non-finalized Adoption: When a *child* in a non-finalized adoptive placement is placed in substitute care:

- (A) The local office must open a substitute care service for the *child*; and
 - (B) The Title IV-E Specialist must perform an eligibility redetermination for Title IV-E *foster care*, based on the original removal of the *child*.
- (8) Eligibility for Title IV-E adoption assistance may not be presumed for a *child* placed with a guardian, and receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination (CF 969c) based on the original removal of the *child*.

Stat. Auth.: ORS 418.005, 418.330 - 418.340

Stats. Implemented: ORS 418.005, 418.330 - 418.340

413-100-0345

Guardianship Assistance Eligibility

(Amended 06/30/11)

- (1) To be eligible for Title IV-E guardianship assistance, the prospective guardian must meet the definition of a relative, as defined in Child Welfare Policy I-E.1.1, "Search for and Engagement of Relatives", under OAR 413-070-0063 (10).
- (2) To be eligible for Title IV-E guardianship assistance through age 17, the *child* must:
 - (a) Meet the age and education requirements specified in OAR 413-100-0230; and
 - (b) Be a United States citizen or a qualified alien (see OAR 413-100-0210) and meet the requirements of at least one of the following subsections:
 - (A) The *child* must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the *child* and the *child* must be or have been eligible to receive a Title IV-E *foster care* maintenance payment while residing in the home of the prospective relative guardian who met all certification requirements for any six consecutive months;
 - (B) The *child* is in receipt of Supplemental Security Income (SSI) benefits and the *child* would be or would have been eligible to receive Title IV-E *foster care* maintenance payments for six consecutive months in the home of the prospective relative guardian; or
 - (C) The *child* is a sibling of another Title IV-E guardianship assistance eligible *child* who is or will be living with the same prospective relative guardian. The requirement for six consecutive months of eligibility for *foster care* maintenance payments under subsection (2)(a) of this section is

waived for the sibling of the Title IV-E guardianship assistance eligible *child*.

- (3) To be eligible for an extension of Title IV-E guardianship assistance through age 20, the *young adult* also must be part of a guardianship assistance agreement that was made effective after the *child* reached 16 years of age, but before the *child* attained 18 years of age.
- (4) Eligibility for Title IV-E adoption assistance may not be presumed for a *child* placed with a guardian, and receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination based on the original removal of the *child*.
- (5) Removal from a guardianship placement (including guardianships established through or outside of the Guardianship Assistance program).
 - (a) Removal from a guardianship placement is considered a new removal for the Title IV-E Foster Care program, and an initial Title IV-E *foster care* eligibility determination is required when a *child* or *young adult* is removed from a guardianship placement:
 - (A) On the basis of a voluntary custody agreement or voluntary placement agreement, or
 - (B) As the result of a judicial determination that continuation in the home would be contrary to the welfare of the *child*.
 - (b) The Title IV-E *foster care* eligibility determination will be based on removal of the *child* or *young adult* from the guardian.
 - (c) If the *child* or *young adult* was removed from a guardianship assistance placement, the *child* or young adult's eligibility for Title IV-E guardianship assistance will resume if the *child* or *young adult* is later placed back with the same relative guardian.
 - (d) If the *child* or *young adult* is later placed with a different relative guardian, the Department must complete a new Title IV-E guardianship eligibility determination.
- (6) Title IV-E Guardianship Assistance Eligibility Denial Notices and the Right to a Hearing
 - (a) Title IV-E Guardianship Assistance Denial Notices
 - (A) A "Denial of Title IV-E Guardianship Assistance Eligibility" form must be completed at the time of the child's Title IV-E eligibility denial for guardianship assistance.

- (B) The "Denial of Title IV-E Guardianship Assistance Eligibility" form must be sent by certified mail (return receipt requested) to the prospective relative guardian when the child's eligibility for Title IV-E guardianship assistance is denied.

- (b) Rights for a Hearing
 - (A) When the "Denial of Title IV-E Guardianship Assistance Eligibility" form is mailed to the prospective relative guardian, information will be included about the prospective relative guardian's right to a hearing.

 - (B) If the prospective relative guardian does not agree with the Title IV-E eligibility decision that has been made, the prospective relative guardian has the right to request a contested case hearing under ORS 183, as described in Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Child Welfare Children's Medical Eligibility

413-100-0400

Purpose

(Amended 12/21/15)

The purpose of OAR 413-100-0400 to 413-100-0530 is to set forth policies and criteria the Department uses to determine eligibility for:

- (1) Medical assistance under Title XIX of the Social Security Act for a *child* or *young adult* in *substitute care* and in the care and *custody* of the Department or another state;
- (2) Medical assistance under Title XIX for a *child* or *young adult* under an *adoption assistance agreement* or *guardianship assistance agreement* through the Department or another state;
- (3) *General Assistance* medical for a *child* or *young adult* who does not meet the eligibility criteria for *Title XIX Medicaid*; and
- (4) Medical eligibility for children entering Oregon under an *Interstate Compact for the Placement of Children (ICPC)* or *Interstate Compact on Adoption and Medical Assistance (ICAMA)* agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0410

Definitions

(Amended 12/21/15)

As used in OAR 413-100-0400 to 413-100-0530:

- (1) "Adjudication" means the legal process by which a *child* or *young adult* is under a court's jurisdiction as a result of having engaged in delinquent behavior and not having a legal guardian that could be responsible for the *child* or *young adult*.
- (2) "Adoption assistance" means assistance provided on behalf of an eligible *child* or *young adult* to offset the costs associated with adopting and meeting the ongoing needs of the *child* or *young adult*. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.
- (3) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *pre-adoptive family* or adoptive family of an

eligible *child* or *young adult*, setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the *pre-adoptive family* or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

- (4) "Child" means a person under 18 years of age.
- (5) "Children's Medical Unit" means the unit in Child Welfare Central Office where medical eligibility is completed for children in the ICPC, ICAMA, Non-IV-E Tribal, and Karly's Law programs.
- (6) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 which is a federal mandate that requires employers sponsoring group health plans for twenty (20) or more employees to offer continuation of coverage to employees, their spouses, and dependent children who become unemployed.
- (7) "Custody" means legal custody described in ORS 419B.373.
- (8) "Department" means the Department of Human Services, Child Welfare.
- (9) "Foster care" means 24 hour *substitute care* for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A *child* is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the *child*, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.
- (10) "General Assistance" means services paid using the state General Fund.
- (11) "Guardianship assistance" means assistance on behalf of an eligible *child* or *young adult* to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the *child* or *young adult*. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.
- (12) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.
- (13) "ICAMA" means the Interstate Compact on Adoption and Medical Assistance, which was established in 1986 to safeguard and protect the interstate interests of children covered by an *adoption assistance agreement* when they move or are adopted across state lines.

- (14) "ICPC" means the Interstate Compact for the Placement of Children. It is an agreement among states to coordinate the transfer and placement of children across state lines. (See ORS 417.200)
- (15) "Independent Living Program" or "ILP" means the services provided by the Department to an eligible foster child or former foster child.
- (16) "OCCS Medical" means Title XIX and Title XXI Medical provided through the Office of Client and Community Services under the Oregon Health Authority.
- (17) "Pre-adoptive family" means an individual or individuals who:
 - (a) Has been selected to be a child's adoptive family; and
 - (b) Is in the process of legalizing the relationship to the *child* through the judgment of the court.
- (18) "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.
- (19) "Title IV-E" means Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance, *adoption assistance*, and *guardianship assistance* on behalf of certain eligible children and young adults.
- (20) "Title XIX Medicaid" means federal and state funded medical assistance established by Title XIX of the Social Security Act.
- (21) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0420

Child Welfare Title XIX Medicaid Program Eligible Populations

(Amended 12/21/15)

Only the following children and young adults may be eligible for Child Welfare *Title XIX Medicaid*:

- (1) A *child* or *young adult* in *substitute care*, which may include:
 - (a) A *child* or *young adult* in *foster care*.
 - (b) A *child* or *young adult* receiving Supplemental Security Income (SSI).

- (c) A *child* or *young adult* held temporarily in a county or state juvenile detention facility.
- (d) A *child* or *young adult* in a subsidized *Independent Living Program*.
- (e) A *child* or *young adult* who returned home in a trial reunification for up to six months.
- (f) A *child* or *young adult* in a pre-adoptive placement.
- (g) A *child* or *young adult* on runaway status who would otherwise be in *substitute care*, as long as the Department retains *custody* of the *child* or *young adult* and the *child* or *young adult* would continue to be in *substitute care* and Child Welfare *Title XIX Medicaid* eligible if not on runaway status.
- (h) A *child* or *young adult* hospitalized while under the Department's protective *custody* is eligible, if at the time of hospitalization, the Department's intent was to place the *child* or *young adult* in *substitute care*.
- (i) A *child* or *young adult* from Oregon placed in *substitute care* in another state through ICPC and the receiving state has denied the *child* or *young adult* medical coverage.
- (j) A *child* or *young adult* admitted to the hospital prior to entering *substitute care* and a newborn released from the hospital into *substitute care*. Eligibility for a *child* or *young adult* is effective on the date the Department finds the *child* or *young adult* is eligible but not earlier than the date the Department obtains *custody* of the *child* or *young adult*.
- (k) Newborns in the following situations:
 - (A) A baby born to a mother receiving medical benefits under *Title XIX Medicaid* from the Oregon Health Authority is eligible for *Title XIX Medicaid* due to the mother's coverage.
 - (B) A baby born to a mother not receiving medical benefits under *Title XIX Medicaid* from the Oregon Health Authority, to ensure coverage of birth expenses if:
 - (i) The Department obtains *custody* of the baby during its hospitalization; and
 - (ii) Child Welfare *Title XIX Medicaid* coverage is entered in the Department's electronic information system effective the date of birth.

- (2) A *child* or *young adult* who is the subject of an effective *adoption assistance agreement* administered by the Department.
- (3) A *child* or *young adult* who is the subject of an effective *guardianship assistance agreement* administered by the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0430

Eligibility Determination for a Child or Young Adult in Substitute Care

(Amended 06/12/14)

Except as provided in OAR 413-100-0435(7), the following policies apply to a *child* or *young adult* in *substitute care*:

- (1) Before a *child* or *young adult* in *substitute care* may receive a medical card providing Child Welfare *Title XIX Medicaid* services, the Department must determine the eligibility of the *child* or *young adult* for Child Welfare *Title XIX Medicaid*.
- (2) A *child* or *young adult* covered by OAR 413-100-0420 who meets one of the following criteria is categorically eligible for Child Welfare *Title XIX Medicaid*:
 - (a) Is eligible for *Title IV-E foster care* payments; or
 - (b) Is receiving Supplemental Security Income (SSI).
- (3) As part of the eligibility determination for Child Welfare *Title XIX Medicaid*:
 - (a) The *child* or *young adult* must meet the citizenship and alien status requirements in OAR 413-100-0460.
 - (b) All income and resources will be disregarded except as described in (3)(d) of this section.
 - (c) The *child* or *young adult* must have a verified Social Security number (SSN) or verification that an application for an SSN has been made and is documented in the case file.
 - (d) The Department must determine if the *child* or *young adult* has other insurance.
 - (A) All known or potential health insurance benefits or resources and all other third-party medical benefits, including casualty insurance available to the *child* or *young adult*, must be assigned to the Department.

- (B) The form MSC 415H, "Notification of Other Health Insurance", must be completed by a parent or the caseworker and sent to the Department for every *child* or *young adult* with health insurance coverage.
- (4) Except when a *child* or *young adult* is determined eligible for Child Welfare *Title XIX Medicaid* under OAR 413-100-0435, coverage ends the day the *child* or *young adult* leaves state *custody*, or enrolls into *OCCS Medical*.
- (5) *General Assistance* coverage will be provided when a *child* or *young adult* in *substitute care* does not meet the eligibility requirements for Child Welfare *Title XIX Medicaid* coverage. Eligibility redeterminations for a *child* or *young adult* receiving *General Assistance* must be completed every 12 months.
- (6) Redetermination of the eligibility of each *child* or *young adult* for Child Welfare *Title XIX Medicaid* must be reviewed every 12 months.
- (7) Retroactive Title XIX Medicaid or General Assistance eligibility.
- (a) A *child* or *young adult* receiving medical assistance through *General Assistance* rather than through Child Welfare *Title XIX Medicaid* due solely to the lack of a Social Security number (SSN) is eligible for Child Welfare *Title XIX Medicaid* retroactive to the date of placement once the Department receives verification of an application for an SSN from the Social Security Administration.
- (b) A *child* or *young adult* in *substitute care* may be enrolled into *Title XIX Medicaid* or *General Assistance* retroactively to the date of initial placement, if not done on date of placement.
- (c) A *child* or *young adult* who has been found to have dual prime numbers in the Medicaid Management Information System (MMIS) may receive retroactive coverage to the earliest date of coverage for either prime number.
- (8) Corrections to the record of the *child* or *young adult* in the Department's electronic information system may be made when it has been determined that the *child* or *young adult* was incorrectly shown as Child Welfare *Title XIX Medicaid* eligible for prior months.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0432

Payments for Services Provided in Emergency Situations When a Child or Young Adult is Not Enrolled in Title XIX Medicaid

(Adopted 06/12/14)

Payment may be made for emergency medical services only for a *child* or *young adult* in the Department's care or *custody*. The payment is made from the local office's "Other Medical" budget.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0435

Title XIX Medicaid Eligibility for a Child or Young Adult Receiving Adoption Assistance or Guardianship Assistance

(Amended 12/21/15)

- (1) The Child Welfare Post Adoption Program will determine and maintain Child Welfare *Title XIX Medicaid* eligibility for the following children and young adults:
 - (a) A *child* or *young adult* who has exited Department *custody* as the result of a finalized adoption, and the *child* or *young adult* is the subject of an effective *adoption assistance agreement* administered by the Department. Prior to the adoption finalization the *child* or *young adult* receives medical coverage as described in OAR 413-100-0430.
 - (b) A *child* or *young adult* who is determined eligible for *guardianship assistance* and is the subject of an effective *guardianship assistance agreement* administered by the Department.
 - (c) A *child* or *young adult* who is the subject of an adoption that does not require the Department's consent and is the subject of an effective *adoption assistance agreement* administered by the Department.
- (2) Before a *child* or *young adult* described in section (1) of this rule may receive a medical card providing Child Welfare *Title XIX Medicaid* services, the Child Welfare Post Adoption Program must determine the eligibility of the *child* or *young adult* for Child Welfare *Title XIX Medicaid*.
- (3) The requirements listed in OAR 413-100-0430(3) also apply to children and young adults described in section (1) of this rule.
- (4) A *child* or *young adult* described in section (1) of this rule who is the subject of a *guardianship assistance agreement* where *Title IV-E* funded payments are being made to the guardian is eligible for Child Welfare *Title XIX Medicaid*.

- (5) A *child* or *young adult* described in section (1) of this rule who is the subject of an *adoption assistance agreement* where the pre-adoptive parent or adoptive parent is eligible to receive a *Title IV-E* funded payment is eligible for Child Welfare *Title XIX Medicaid*.
- (6) A *child* or *young adult* described in section (1) of this rule who is the subject of an *adoption assistance agreement* or *guardianship assistance agreement*, where the *child* or *young adult* was eligible for Child Welfare *Title XIX Medicaid* while in *substitute care* but ineligible for *Title IV-E foster care*, will be determined eligible and provided Child Welfare *Title XIX Medicaid*.
- (7) A *child* or *young adult* described in section (1) of this rule determined ineligible to receive Child Welfare *Title XIX Medicaid* will be provided *General Assistance* medical when:
 - (a) The *child* or *young adult* resides in Oregon; or
 - (b) The *child* or *young adult* resides outside of Oregon but in the United States or a territory or possession thereof and is not able to receive medical assistance through the state of residence.
- (8) Annual redeterminations are not required for children and young adults under a finalized *adoption assistance agreement* or *guardianship assistance agreement*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0445

Youth in Detention

(Amended 06/12/14)

- (1) Except as provided in section (2) of this rule, an individual held in a county or state juvenile detention facility is ineligible for Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage.
- (2) An individual held in a county or state juvenile detention facility may be eligible for new or continuation of Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage under the following situations:
 - (a) If the *child* or *young adult* is in detention and going back to *substitute care*.
 - (b) When the *child* or *young adult* is in Child Welfare care or *custody* and will be in a detention facility temporarily.

- (3) Child Welfare *Title XIX Medicaid* or *General Assistance* medical coverage will be closed after *adjudication* when the *child* or *young adult* is placed in the care and *custody* of the Oregon Youth Authority.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0451

Interstate Compact for the Placement of Children (ICPC) and Interstate Compact on Adoption and Medical Assistance (ICAMA)

(Adopted 06/12/14)

- (1) The *Children's Medical Unit* will determine and maintain *Title XIX Medicaid* eligibility for a *child* or *young adult* placed in Oregon from another state pursuant to an approved ICPC request or eligible for medical assistance in Oregon under ICAMA.
- (2) A *child* or *young adult* placed in Oregon pursuant to an approved ICPC request is eligible for medical assistance in Oregon when at least one of the following criteria are met:
 - (a) The *child* or *young adult* is placed in *substitute care* in Oregon;
 - (b) The *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility in Oregon and intends to remain in Oregon permanently; or
 - (c) The *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility in Oregon and has been determined *Title IV-E* eligible.
- (3) A *child* or *young adult* is eligible for medical assistance in Oregon under ICAMA when the *child* or *young adult* is the subject of an effective *adoption assistance agreement* or *guardianship assistance agreement* administered by an agency other than the Department and meets one of the following criteria:
 - (a) The agreement is *Title IV-E* funded and the *child* or *young adult* is residing in Oregon;
 - (b) The agreement is *Title IV-E* funded and the *child* or *young adult* is placed in a psychiatric or behavioral residential treatment facility or living in a residential or boarding school in Oregon; or
 - (c) The agreement is non-*Title IV-E* funded and the parent or legal guardian of the *child* or *young adult* is residing in Oregon.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0455

Out-of-State Placements

(Amended 06/12/14)

- (1) The Consolidated Omnibus Budget Reconciliation Act of 1985 (*COBRA*) provides for Child Welfare *Title XIX Medicaid* coverage in the state of residence for a *child* or *young adult* receiving *Title IV-E* foster care payments.
- (2) A *child* or *young adult* who is *Title IV-E* eligible in Oregon and placed in *substitute care* in another state is eligible for *Title XIX Medicaid* in the state of residence.
- (3) A non-*Title IV-E child* or *young adult* in DHS care or *custody* and placed in another state must contact the Child Welfare *Title XIX Medicaid* agency in that state for a *Title XIX Medicaid* determination. If that state determines the *child* or *young adult* is not eligible for *Title XIX Medicaid*, the *child* or *young adult* may be eligible for Oregon's Child Welfare *Title XIX Medicaid* or *General Assistance* medical if the *child* or *young adult* meets the eligibility requirements. (See OAR 413-100-0430)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0460

Citizenship and Alienage

(Amended 06/12/14)

- (1) To be eligible for medical assistance under Child Welfare *Title XIX Medicaid*, the *child* or *young adult* must meet the requirements of one of the following subsections:
 - (a) Be a United States citizen.
 - (b) Be a qualified non-citizen under section (2) of this rule who meets the alien status requirements in section (3) of this rule.
 - (c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands.
 - (d) Be a national from American Samoa or Swains Islands.
- (2) An individual is a qualified non-citizen if the individual is any of the following:
 - (a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 USC 1101 et seq.).

- (b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 USC 1157).
 - (c) A non-citizen who is granted asylum under section 208 of the INA (8 USC 1158).
 - (d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 USC 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 USC 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).
 - (e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 USC 1182(d)(5)) for a period of at least one year.
 - (f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 USC 1153(a)(7)) as in effect prior to April 1, 1980.
 - (g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).
 - (h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA.
 - (i) A battered spouse or dependent *child* who meets the requirements of 8 USC 1641(C) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.
- (3) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following requirements:
- (a) The individual is under 19 years of age.
 - (b) The individual was a qualified non-citizen before August 22, 1996.
 - (c) The individual physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.
 - (d) The individual has been granted any of the following alien statuses:
 - (A) Refugee under section 207 of the INA.
 - (B) Asylum under section 208 of the INA.

- (C) Deportation being withheld under section 243(h) of the INA.
 - (D) Cubans and Haitians who are either public interest or humanitarian parolees.
 - (E) Immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.
 - (F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 USC 7101 to 7112).
 - (G) A family member of a “victim of a severe form of trafficking in persons” who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 USC 7101 to 7112).
 - (H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.
- (e) The individual is an American Indian born in Canada to whom the provisions of section 289 of the INA (8 USC 1359) apply.
 - (f) The individual is a member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 USC 450(e)).
 - (g) The individual is a veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 USC 5303A(d).
 - (h) The individual is a member of the United States Armed Forces on active duty (other than active duty for training).
 - (i) The individual is a spouse or a dependent child of an individual described in subsections (g) or (h) of this section.
- (4) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:
- (a) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.
 - (b) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the U.S. Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

- (A) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a).
 - (B) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b).
 - (C) A Cuban-Haitian entrant, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended.
 - (D) A Family Unity beneficiary pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended.
 - (E) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President of the United States;
 - (F) An alien currently in deferred action status pursuant to U.S. Department of Homeland Security Operating Instruction OI 242.1(a)(22).
 - (G) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.
- (c) An individual in non-immigrant classification under the INA who is permitted to remain in the United States for an indefinite period, including individuals as specified in section 101(a)(15) of the INA (8 USC 1101).
- (5) In order for the Department to authorize benefits, there must be proof that a *child* or *young adult* is a United States citizen or is in the country legally. Birth certificates, citizenship papers, alien registration cards, permanent visas, and Cuban and Refugee registration cards may be used as proof.
 - (6) An individual granted status under the Deferred Action for Childhood Arrivals (DACA) program is not eligible for medical assistance under Child Welfare Title XIX Medicaid unless the individual qualifies for an immigration status that provides medical eligibility under this rule apart from the individual's DACA status.
 - (7) A non-citizen whose immigration status cannot be verified at intake, but who declares a non-citizen status that in the absence of any contradictory evidence would qualify the non-citizen for full benefits, may be provided full benefits pending verification. There are no overpayments should the approved applicant's status, upon verification, prove to be at the Citizen Alien Waived Emergent Medical (CAWEM) level only.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-100-0530

Compliance

(Amended 06/12/14)

- (1) The Department is responsible for compliance with the requirements of the Office of Management and Budget, OMB Circular A-133, available at:
http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2011.
- (2) All cases to be reviewed by state auditors, including internal audits, or federal auditors are requested through the Department's Federal Compliance Unit. All case material (eligibility and service records) are made available for review upon request. The cases are randomly selected and must meet the criteria specific to the requirements of state and federal auditors.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Child Support Referrals

413-100-0800

Child Support Referrals

(Amended 04/01/16)

- (1) The parents of a *child* in a paid *substitute care* placement may be required to make monthly *child support* payments to the state until one of the following occurs:
 - (a) The *child* is reunified with the *parent*.
 - (b) The *child* turns 18 or as long as the child is attending school as defined in ORS 107.108.
 - (c) Parental rights have been terminated or relinquished.
- (2) If there is an active child support case in which one *parent* is paying the other, the Department will refer the case to the Division of Child Support (DCS) to assign *support* payments to the Department.
- (3) If there is not an existing *child support* order, the Department will refer the case to the DCS to establish a *child support* order unless one of the following applies:
 - (a) The Post Adoption Program determined not to initiate a referral to DCS.
 - (b) The *parent* is deceased.
 - (c) The *parent* is receiving Supplemental Security Income (SSI) benefits.
 - (d) The *parent* is a Social Security Disability or Retirement beneficiary.
 - (e) The *parent* is under the age of 18.
 - (f) The *parent* has a developmental disability and is incapable of supporting the *child* or themselves.
 - (g) The *parent* has significant mental health issues that prevent gainful employment.
 - (h) The *parent* is homeless and incapable of supporting the *child* or themselves.
 - (i) The *parent* is receiving Temporary Assistance for Needy Families (TANF) benefits.
 - (j) The *parent* is or will be incarcerated for more than six months.

- (k) The *parent* is compliant with the reunification plan and the Department caseworker believes enforcement of a support order would negatively impact the plan.
 - (l) The *parent* is actively participating in a treatment program.
 - (m) There is a prior finding of "good cause" as defined under OAR 461-120-0350, and after re-evaluation remains in effect.
 - (n) If reunification is no longer the plan and the plan changes to relinquishment or termination of parental rights.
 - (o) The parents would be unable to comply with the permanency plan of reunification due to the financial hardship caused by paying *child support*.
 - (p) The *child* is expected to be in paid *substitute care* for only a short period of time.
 - (q) The noncustodial *parent* is a potential resource.
 - (r) Other appropriate circumstances determined by the Department.
- (4) If a *child* enters paid *substitute care* following adoption in Oregon or another state or country and is receiving an *adoption assistance payment*:
- (a) The Department must review the payment and may discuss renegotiation with the *parent*; and
 - (b) The Post Adoptions Program Manager or designee has authority to determine whether the Department would initiate a referral for *child support*. The following factors must be considered:
 - (A) Reason the *child* entered care;
 - (B) Amount of *adoption assistance payment*;
 - (C) *Parent* involvement in the permanency plan; and
 - (D) Any other considerations involving the best interests of the *child*.
- (5) A determination to not refer a *parent* to DCS does not prohibit the Department from making a referral in a subsequent episode of Department custody.
- (6) A determination to not refer a *parent* to DCS does not prohibit the Department from re-evaluating intermittently during the same episode of care.

- (7) The Department must inform a *parent* that the *parent* may be required to pay *child support*.
- (8) The Department must notify DCS when:
 - (a) The *child* or *young adult* exits paid *substitute care*; or
 - (b) Parental rights have been terminated or relinquished.

Stat. Auth.: ORS 412.024, 418.005

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, 418.005, 418.032

413-100-0810

Child Support Arrears Owed to Department

(Amended 04/01/16)

- (1) *Child support* arrears resulting from nonpayment during an episode of Department custody will be assigned and payments disbursed as prescribed by law.
- (2) Any *child support* arrears owed to the Department after termination of assignment to the Department will be collected by DCS and payments disbursed to the Department until the debt for past paid *substitute care* is fulfilled, or until the legal time frame for collection of the debt expires whichever is earlier. The legal time frame for collection of the debt expires 35 years from the judgment date.
- (3) With approval of the Child Permanency Program Manager or designee or the Federal Compliance Program Manager or designee, DCS may grant:
 - (a) A file credit, wherein the *child support* arrears are not actively pursued, but will remain on file, and the agency reserves the right to collect the arrears at a later date; or
 - (b) A satisfaction on the arrears, wherein the *child support* arrears are forgiven through the court and the agency may not attempt to collect from the *parent*.

Stat. Auth.: ORS 412.024, 418.005

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, 418.005, 418.032

413-100-0820

Handling DCS Case Information

(Amended 04/01/16)

- (1) The Department may obtain an absent parent's place of residence and demographic information from a *child support* case to be used for the administration of Department

programs. This information may be entered in the Department's electronic information system when verified. However, child support case screens may not be printed or reproduced.

- (2) The Department may make application through the Federal Parent Locate Service for the purpose of establishing paternity and enforcement when an absent parent's whereabouts are not readily available through an existing paternity establishment or *child support* case.

Stat. Auth.: ORS 412.024, 418.005

Stats. Implemented: ORS 109.010, 109.015, 180.320, 412.024, 418.005, 418.032

413-100-0830

Paternity and Parentage Establishment

(Amended 04/01/16)

The Department will refer *substitute care* cases to DCS for establishment of parentage under any of the following circumstances:

- (1) Only one parent is listed on the child's birth record; or
- (2) The Department has not begun the parentage establishment process through genetic testing.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.010, 109.015, 109.070, 180.320, ORS 419B.875

Educational Services for a Child or Young Adult in Substitute Care

413-100-0900

Purpose

(Amended 12/28/11)

The purpose of these rules, OAR 413-100-0900 to 413-100-0940, is to describe the activities required to --

- (1) Ensure that regular education and *special education services* are provided to promote academic achievement of a *child* or *young adult* in the care and custody of the Department; and
- (2) Ensure that public preschool education, early intervention education programs, and appropriate post-secondary education or training opportunities are explored for an eligible *child* or *young adult* in the care or custody of the Department.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.050, 418.005, 419B.192, 419B.220, 419B.343

413-100-0905

Definitions

(Amended 12/28/11)

The following definitions apply to OAR 413-100-0900 to 413-100-0940:

- (1) "CASA" means Court Appointed Special Advocate, a volunteer who is appointed by the court, is a party to the juvenile proceeding, and is an advocate for the *child* pursuant to ORS 419A.170.
- (2) "Child" means a person under 18 years of age.
- (3) "Department" means the Department of Human Services, Child Welfare.
- (4) "GED" means a General Educational Development certificate issued pursuant to ORS 326.550.
- (5) "Homeless individual" for the purposes of the McKinney-Vento Homeless Education Act means children and youth who have a right to public school enrollment and are awaiting foster care placement or are in temporary foster settings awaiting permanent placement under ORS 339.115(7).

- (6) "IEP team" means the participants who determine whether the *child* is a *child* with a disability and who develop the individualized education program (IEP) for the *child* as described under OAR 581-015-2000(15) and 581-015-2210(1).
- (7) "Parent", except as provided otherwise in OAR 413-100-0930, means the biological or adoptive mother or the biological, legal, or adoptive father of the *child*.
- (8) "Special education," as defined in OAR 581-015-2000(33), means specially designed instruction, at no cost to the parents, to meet the unique needs of a *child* with a disability, including instruction in the classroom, instruction in the home, and instruction in hospitals, institutions, special schools, and other settings. The term includes specially designed instruction in physical education, speech language services, vocational education, travel training, and orientation and mobility services.
- (9) "Special education services" means assistance provided to a *child* with a disability to meet the child's unique needs and includes instruction in the classroom, in the home, and in hospitals, institutions, special schools, and other settings.
- (10) "Substitute caregiver" means a relative caregiver, foster parent, or provider who is authorized to provide care to a *child* who is in the legal or physical custody of the Department.
- (11) "Surrogate" means an individual who has been appointed to safeguard a child's rights in the *special education* decision-making process. The individual may be appointed pursuant to applicable Department of Education administrative rules and statutes or by the juvenile court.
- (12) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 419B.192, 419B.220, 419B.343

413-100-0910

Role of the Department in the Education of a Child or Young Adult

(Amended 12/28/11)

The Department promotes the academic achievement of a *child* or *young adult* by participating as a member of the team that performs the academic assessment, planning, and goal setting for the *child* or *young adult*. The caseworker works collaboratively with the *parent* or legal guardian whenever appropriate; the local school district and school officials; the *substitute caregiver*; the *surrogate*, if one is appointed; the CASA and attorney of the *child* or *young adult*; local Department of Education District Homeless Liaison; and service providers involved in the case plan of the *child* or *young adult*, as appropriate, in order to ensure school enrollment and promote academic achievement.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 326.575, 409.050, 418.005, 419B.192, 419B.220, 419B.343

413-100-0915

Ensure a Child or Young Adult's Enrollment in School or Educational Setting

(Amended 12/28/11)

- (1) When a *child* or *young adult* is in substitute care, the child's caseworker must arrange school enrollment and educational services under the following requirements.
 - (a) Preferred school or educational setting when a *child* first enters substitute care and at each placement move while the *child* or *young adult* remains in substitute care. The preferred school or educational setting when a *child* first enters substitute care is the school or educational setting the *child* attended prior to entry into substitute care unless --
 - (A) Remaining in the same school or educational setting is not in the best interest of the *child*; and
 - (B) Continuing to attend the same school or educational setting is not consistent with the ongoing safety plan or jeopardizes the child's safety.
 - (b) Consideration of continuity of previous school placement when a *child* is in substitute care. A *child* who meets the definition of a *homeless individual* under the McKinney-Vento Homeless Education Act must be referred to the local Department of Education District Homeless Liaison, and may qualify for services available through the Act.
- (2) Responsibility for ensuring school enrollment. The caseworker must ensure a *child* or *young adult* in the Department's care or custody is enrolled in a school or educational setting, through eligibility established under ORS 339.115.
- (3) Responsibility for school or educational setting placement decisions. The juvenile court makes the finding whether it is in the child's or young adult's best interest to continue to attend the school that the *child* or *young adult* attended prior to placement in substitute care by the Department. The *child* or *young adult* shall be considered a resident of the school district the *child* or *young adult* attended prior to placement and may continue to attend the school the *child* or *young adult* attended prior to placement through the highest grade level of the school, in accordance with ORS 339.133.
 - (a) A caseworker must consider recommendations from the child's or young adult's parents or legal guardian, attorney, CASA, school, and surrogate, if one has been appointed, and *substitute caregiver* in making the decision on school enrollment.
 - (b) The child's or young adult's IEP team makes the decision regarding *special education services* provided to the *child* or *young adult* when the *child* or *young adult* is receiving or eligible to receive *special education services*.

- (c) The *young adult* makes the decision regarding educational services and school placement when educational rights have been passed to the *young adult*.
 - (d) When a *child* is in the care or custody of the Department under a Voluntary Placement Agreement, the *parent* or legal guardian retains legal authority over the *child* and continues to be responsible to exercise and perform all parental duties and legal responsibilities except those that the *parent* or legal guardian specifically delegates to the Department by the signed agreement.
- (4) Regardless of the authority to make school or educational placement setting decisions in section (3) of this rule, the caseworker must ensure the school or educational setting is consistent with the ongoing safety plan of the *child* or *young adult*.
- (5) Additional responsibilities when a private school, charter school, alternative school, or international study program is considered.
- (a) Private School. Except as provided in subsections (3)(c)-(d) of this rule, when considering the enrollment of the *child* or *young adult* in a private school, the caseworker must:
 - (A) Ensure that enrollment would be consistent with the child's or young adult's permanency plan;
 - (B) Determine whether the school is accredited in the state in which the school is located;
 - (C) Verify that an entity or person other than the Department will pay all costs except those approved under OAR 413-100-0935;
 - (D) Consider the religious affiliation of the *child* or *young adult* and the *parent* or legal guardian when considering enrollment in a religiously-affiliated private school;
 - (E) Consider recommendations from the child's or young adult's parents, attorney, CASA, and *substitute caregiver*; and
 - (F) Obtain approval from the Child Welfare program manager.
 - (b) Charter school or alternative school. Except as provided in subsections (3)(c)-(d) of this rule, when considering the enrollment of a *child* or *young adult* in a charter school or alternative school, the caseworker must:
 - (A) Ensure that enrollment would be consistent with the child's or young adult's permanency plan;

- (B) Verify that the charter school is approved by the local school district board or the Oregon Department of Education;
 - (C) Consider recommendations from the child's or young adult's parents, attorney, CASA, and *substitute caregiver*; and
 - (D) Obtain approval from the Child Welfare program manager.
- (c) International study program. Except as provided in subsections (3)(c)-(d) of this rule, when considering enrolling a *child* or *young adult* in an international study program, the caseworker must:
- (A) Ensure that enrollment is consistent with the child's or young adult's permanency plan;
 - (B) Verify that the international study program is accredited;
 - (C) Consider recommendations from the child's or young adult's parents, attorney, CASA, and *substitute caregiver*;
 - (D) Obtain approval from the Child Welfare program manager, the District Manager, the Diversity and International Affairs Manager; and
 - (E) Obtain approval of the juvenile court.
- (6) Additional responsibilities when considering a GED program. Except as provided in subsections (3)(c)-(d) of this rule, when considering a GED program for the *child* or *young adult*, whether the program is held at a public school or at a location other than a public school, the caseworker must:
- (a) Determine, that obtaining a GED meets the child's or young adult's educational needs better than obtaining a high school diploma;
 - (b) Verify that a GED program is consistent with the child's or young adult's case plan;
 - (c) Consider recommendations from the child's or young adult's parents, attorney, CASA, and *substitute caregiver*; and
 - (d) Obtain approval from the Child Welfare program manager.
- (7) Additional responsibilities when considering home schooling. Except as provided in subsections (3)(c)-(d) of this rule, when considering home schooling for the *child* or *young adult* in the substitute caregiver's home, the caseworker must:
- (a) Determine that a home schooling environment would not interfere with the child's or young adult's social development;

- (b) Determine that home schooling would promote inclusion in the substitute caregiver's home;
 - (c) Determine that a home school environment is consistent with the child's or young adult's permanency plan;
 - (d) Determine that the child's or young adult's enrollment in a home school program is permitted by state law in another state if the *child* or *young adult* is placed in another state through the Interstate Compact on the Placement of Children;
 - (e) Obtain the approval of the child's or young adult's *parent*, as defined in OAR 413-100-0905(7), or guardian for the *substitute caregiver* to act as a private teacher;
 - (f) Verify the *substitute caregiver* has provided written notification to the education service district of intent to provide home schooling;
 - (g) Obtain the approval of the Child Welfare program manager; and
 - (h) Obtain the approval of the juvenile court.
- (8) Transportation to school. After the school or educational setting has been determined, the caseworker must assess the school district's available transportation options and, if school district transportation is unavailable, select and arrange the most reliable, safe, cost-effective transportation option to transport the *child* or *young adult* to and from the school or educational setting.
- (9) Once a school or educational setting has been selected for a *child* or *young adult*, the caseworker must notify the school or educational setting that the *child* or *young adult* is in the legal custody of the Department and may provide information about the reason the *child* or *young adult* is in substitute care to the staff of the school or educational setting only when providing such information to a particular staff person is necessary for the child's or young adult's education planning or to ensure the safety of the *child*, *young adult*, or others in the school with whom the *child* or *young adult* has contact.
- (10) Unless a *child* or *young adult* has achieved high school graduation or is incapable of attending school for a medical reason, the Department will ensure school enrollment under Chapter 581 of Oregon Administrative Rules for a *child* or *young adult* in the custody of the Department.
- (11) The caseworker must document in the case plan of the *child* or *young adult* all of the following:
- (a) Information about the current school or educational setting of the *child* or *young adult*.

- (b) All schools or educational settings the *child* or *young adult* has attended since the date the *child* or *young adult* has been in the custody of the Department.
- (c) The length of time the *child* or *young adult* has spent in each school or educational setting.
- (d) The number of high school credits each *child* or *young adult* 14 years of age or older has earned.
- (e) The child's *surrogate*, if one has been appointed.
- (f) The reason for any change in the child's or young adult's school or educational setting.
- (g) Information regarding the child's or young adult's educational records, which may include but is not limited to:
 - (A) Report cards;
 - (B) Transcripts;
 - (C) Individual Education Plan;
 - (D) A 504 plan, developed under the provisions of Section 504 of the Rehabilitation Act of 1973; and
 - (E) A transition plan.
- (h) The basis the *child* or *young adult* is incapable of attending school under section (10) of this rule should that section apply.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: ORS 409.010, 418.005, 419B.192, 419B.220, 419B.343

413-100-0920

Consent for School Activities

(Amended 12/28/11)

Once the Department has determined the child's or young adult's school or educational setting, the *substitute caregiver* may give permission for the *child* or *young adult* to attend school-related activities such as, but not limited to, school enrollment, field trips within the state of Oregon, routine social events, sporting events, and cultural events.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: ORS 409.050, 418.005, 419B.192, 419B.220, 419B.343

413-100-0925

Consent for Special Education Services

(Amended 12/28/11)

- (1) When a *child* or *young adult* is in the care and custody of the Department, and there is reason to believe the *child* has a disability under the Individuals with Disabilities Education Act, 20 USC §§ 1400 et seq., or the Oregon Department of Education administrative rules regarding *special education* (OAR 581, Division 15), the caseworker must identify who is the *parent* or *surrogate* making educational decisions for the *child* or *young adult*.
- (2) If a *surrogate* has not been appointed, or if more than one person is qualified to make *special education* decisions for the *child* or *young adult*, the caseworker may ask the court to determine the education decision maker. Persons who qualify to make educational decisions include:
 - (a) The biological or adoptive *parent* of the *child* or *young adult*.
 - (b) A foster *parent* or relative caregiver of the *child* or *young adult*.
 - (c) A legal guardian.
 - (d) An individual acting in the place of a biological or adoptive *parent* (including a grandparent, stepparent, or other relative) with whom the *child* or *young adult* lives, or a person who is legally responsible for the welfare of the *child* or *young adult*.
- (3) When a *child* or *young adult* with a disability is being considered for home schooling, in addition to the requirements of OAR 413-100-0915, the caseworker must:
 - (a) Ensure the *surrogate* of the *child* or *young adult* has approved home schooling; and
 - (b) Ensure the *surrogate* participates in the *special education* planning for the *child* or *young adult* in the home school environment.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: ORS 409.010, 418.005, 419B.192, 419B.220, 419B.343

413-100-0930

Rights to a Child's Education Records

(Amended 12/28/11)

- (1) The Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g, protects the authority of parents to review their minor children's education records, limit the records' release without written consent by the parents, and correct errors in those records. 34 CFR 99.3, one of FERPA's implementing regulations, defines "parent" as "a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian." Under this definition, a Department employee may act as a "parent," for FERPA purposes, if the Department is the legal guardian of the *child*.
- (2) A Department employee may demonstrate his or her authority to exercise the FERPA rights of a child's parent by providing the educational agency or institution with evidence that the Department is the legal guardian of the *child*, which may include a juvenile court order appointing the Department as the legal guardian of the *child*.
- (3) This rule does not apply to the *special education* records for a student who is eligible for *special education services* or is suspected of being eligible for *special education services* under the Individuals with Disabilities Education Act, 20 USC §§ 1400 et seq., or the Oregon Department of Education administrative rules regarding *special education* (OAR 581, Division 015). To receive these records, a Department employee may:
 - (a) Receive information from the school of a child's personally identifiable information in connection with a child protective services (CPS) investigation under OAR 581-021-0380;
 - (b) Be advised by the school of a child's disabling conditions prior to an interview with the *child* during the course of a CPS assessment under ORS 419B.045;
 - (c) Seek a court order to obtain the *special education* records; or
 - (d) Seek a release of information to obtain the *special education* records from a child's or young adult's parent, guardian, *surrogate*, or from a *young adult* whose *special education* rights have been passed to the student.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: ORS 326.575, 336.187, 409.010, 418.005, 419B.045, 419B.192, 419B.220, 419B.343

413-100-0935

Educational Expenses

(Amended 06/28/08)

- (1) The Department may authorize payment for some allowable school costs other than transportation, if sufficient funds are available and the school district does not cover the expense. Authorization for these expenses is outlined in Child Welfare Policies I-E.5.2, "Payments for Special or Extraordinary Needs", OAR 413-090-0365 and I-E.5.4, "Flexible Fund".
- (2) A school district board or public charter school may waive school fees for certain activities under ORS 339.147 and ORS 339.155 when the student is a ward of the court.

Stat. Auth.: ORS 339.147, 339.155, 409.050, 418.005

Stat. Implemented: ORS 339.133, 339.147, 339.155, 409.050, 418.005, 419B.192, 419B.343

413-100-0940

Early Education and Post-Secondary Education

(Amended 12/28/11)

- (1) The caseworker must ensure that an eligible *child* in the care or custody of the Department has the same access to public preschool education and early intervention education programs as eligible children not in the care or custody of the Department. In meeting this obligation, the caseworker must ensure a *child* victim under three years old has been referred to an early intervention education program.
- (2) The caseworker must ensure that a *child* or *young adult* in the care or custody of the Department has access to the information and resources available to explore post-secondary education and training opportunities. In meeting this obligation the caseworker must include education in any child's or young adult's plan for transition to independent living.

Stat. Auth.: ORS 409.050, 418.005

Stat. Implemented: ORS 409.050, 418.005, 419B.192, 419B.343

