

Enrolled House Bill 2049

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Human Services)

CHAPTER

AN ACT

Relating to public assistance for families with dependent children; creating new provisions; amending ORS 412.009, 412.014 and 412.024; and declaring an emergency.

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

SECTION 1. For the biennium beginning July 1, 2011, the Department of Human Services may, notwithstanding ORS 411.070, 412.006, 412.009 and 412.016:

(1) Prescribe by rule an employability assessment and orientation process that the department shall use to determine the level of participation by individuals applying for or receiving aid pursuant to the temporary assistance for needy families program and required to participate in the job opportunity and basic skills program described in ORS 412.006. This process must occur prior to any assessment described in ORS 412.006 (3) that is conducted by the department.

(2) Require all families to participate in the employability assessment and orientation process as a condition for the family's receipt of aid.

(3) Determine the selection and placement in the job opportunity and basic skills program activities of existing and future applicants and recipients of aid based on the results of the employability assessment or other criteria.

(4) Require an individual in a one-parent family to participate in the job opportunity and basic skills program while caring for a dependent child who is under two years of age.

(5) Not approve enrollment in and attendance at an educational institution as an allowable work activity for purposes of ORS 412.001 to 412.069, except for recipients who have a case plan in effect on June 30, 2011, that approves enrollment in and attendance at an educational institution as an allowable work activity under ORS 412.016.

(6) Deny aid to a family in which a caretaker relative is separated from employment without good cause during the 60-day period ending on the date of application for aid, subject to exceptions prescribed by the department by rule.

(7) Establish an income eligibility limit equal to 185 percent of the federal poverty guidelines for aid to a dependent child residing with a caretaker relative who is not the child's parent.

(8) Deny employment-related day care assistance to a parent who is self-employed.

(9) Eliminate the reduced copayment required for employment-related day care assistance in the first month of employment.

SECTION 2. ORS 412.009 is amended to read:

412.009. (1) The need for and amount of aid pursuant to the temporary assistance for needy families to be granted for any dependent child or relative pursuant to ORS 412.006 shall be determined, in accordance with the rules of the Department of Human Services, taking into account:

(a) The income, resources and maintenance available to such child and relative from whatever source derived, allowable deductions and the statewide income and payment standards.

(b) The income and financial condition of the stepparent, if any, of the child for whom aid is sought.

(2) Subsection (1)(b) of this section is not intended to relieve any parent of any legal obligation in respect of the support of the natural or adopted children of the parent.

(3) In determining the need for and amount of aid to be granted under subsection (1) of this section and under ORS 411.070, the department shall:

(a) Disregard no less than \$50 of the amount of child support received for each child per month, up to a total of \$200 or the maximum established by federal law, for the family; and

(b) Disregard any other amounts of income and resources of the family as the department may prescribe by rule.

(4) The department by rule shall adopt proven methods of encouraging participants' full engagement in the job opportunity and basic skills program, including the development of an individualized case plan in accordance with ORS 412.006.

(5)(a) The department may not reduce the family's aid payment as a method of encouraging full engagement in the job opportunity and basic skills program pursuant to subsection (4) of this section until the department determines that the noncompliant needy caretaker relative:

(A) Has no barriers or refuses to take appropriate steps to address identified barriers to participation in the program;

(B) Has the ability to be fully engaged in the program as defined by the department by rule; and

(C) Is willfully noncompliant with the requirements of the individualized case plan.

(b) The department may not reduce aid payments under this subsection to families:

(A) Receiving aid pursuant to ORS 412.014 or 412.124;

(B) In which the caretaker relative participates in suitable activities for the number of hours required each month to satisfy federally required participation rates; or

(C) Until the department has screened for and, if appropriate, assessed barriers to participation, including but not limited to physical or mental health needs, substance abuse, domestic violence or learning needs.

(c) The department may not reduce aid payments under this subsection before assessing the risk of harm posed to the children in the household by the reduction in aid payments and taking steps to ameliorate the risk.

(6)[(a) *The department may reduce the aid payment to a family in accordance with subsection (5) of this section.*] Following notice and an opportunity for a hearing under ORS chapter 183[,] **and subject to subsection (5) of this section, the department may reduce the aid payment to an individual who fails to participate in suitable activities required by the individual's case plan or may terminate the aid payment to the family of a noncompliant individual** as follows:

[(A)] (a) The department may reduce the aid payment by the portion attributable to the needs of the noncompliant individual for up to three months.

[(B) *After three months of noncompliance and subject to subsection (5)(c) of this section, the department may terminate the aid payment to the family.*]

(b) Any reduction [*or termination*] in aid under [*this section*] **paragraph (a) of this subsection** may continue until the noncompliant individual participates in suitable activities required by the case plan for two consecutive weeks.

(c) **After three months of noncompliance, and subject to subsection (5)(c) of this section, the department may terminate the aid payment to the family. The family is ineligible for aid for two calendar months after a termination under this paragraph, unless within one month of the effective date of the termination the noncompliant individual participates in suitable activities required by the case plan for two consecutive weeks.**

[c] (d) A caretaker relative may request a hearing to contest the basis for a reduction in or termination of an aid payment within 90 days of a reduction in or termination of aid.

(7) Every six months, the department shall report to the Family Services Review Commission established under ORS 411.075 the status of and outcomes for families for whom aid has been reduced or terminated under subsection (6) of this section. The department shall work with the commission to establish the details to be provided in the report.

SECTION 3. ORS 412.014 is amended to read:

412.014. (1) There is created in the Department of Human Services the State Family Pre-SSI/SSDI program. The department shall provide aid under this section to families that are eligible for temporary assistance for needy families under ORS 412.001 to 412.069 and that include a needy caretaker relative who is unable to maintain substantial gainful activity due to a disability or combination of disabilities that meet the criteria of section 216 of the Social Security Act.

(2) The department shall assist families receiving aid under this section in qualifying for federal Supplemental Security Income and Social Security disability benefits, including obtaining necessary medical records and evaluations. The department shall contract with nonprofit legal services organizations, or lawyers lawfully admitted to the bar of any state, to represent recipients in any administrative appeal.

(3) The department shall adopt rules for determining the amount of aid granted under this section that is not less than the *[combined total of 43 percent of the Supplemental Security Income payment in effect at that time and the amount of aid the child would receive under ORS 412.006 if the caretaker relative did not receive aid]* **amount of aid granted under ORS 412.006 (1).**

(4) Participation in the State Family Pre-SSI/SSDI program shall be voluntary. The department shall provide information to potential participants in the State Family Pre-SSI/SSDI program about the opportunities for employment while receiving Supplemental Security Income benefits and about employment resources available to State Family Pre-SSI/SSDI program participants. The information must be in a format accessible to the potential participant.

(5) Participants in the State Family Pre-SSI/SSDI program must cooperate with the department in establishing eligibility for Supplemental Security Income or Social Security disability benefits. The department by rule may establish policies for monitoring and encouraging full engagement in the State Family Pre-SSI/SSDI program, including activities that promote family stability. The department shall offer participants the opportunity to participate in any suitable activity in the job opportunity and basic skills program under ORS 412.009.

SECTION 4. ORS 412.014, as amended by section 3 of this 2011 Act, is amended to read:

412.014. (1) There is created in the Department of Human Services the State Family Pre-SSI/SSDI program. The department shall provide aid under this section to families that are eligible for temporary assistance for needy families under ORS 412.001 to 412.069 and that include a needy caretaker relative who is unable to maintain substantial gainful activity due to a disability or combination of disabilities that meet the criteria of section 216 of the Social Security Act.

(2) The department shall assist families receiving aid under this section in qualifying for federal Supplemental Security Income and Social Security disability benefits, including obtaining necessary medical records and evaluations. The department shall contract with nonprofit legal services organizations, or lawyers lawfully admitted to the bar of any state, to represent recipients in any administrative appeal.

(3) The department shall adopt rules for determining the amount of aid granted under this section that is not less than the *[amount of aid granted under ORS 412.006 (1)]* **combined total of 43 percent of the Supplemental Security Income payment in effect at that time and the amount of aid the child would receive under ORS 412.006 if the caretaker relative did not receive aid.**

(4) Participation in the State Family Pre-SSI/SSDI program shall be voluntary. The department shall provide information to potential participants in the State Family Pre-SSI/SSDI program about the opportunities for employment while receiving Supplemental Security Income benefits and about

employment resources available to State Family Pre-SSI/SSDI program participants. The information must be in a format accessible to the potential participant.

(5) Participants in the State Family Pre-SSI/SSDI program must cooperate with the department in establishing eligibility for Supplemental Security Income or Social Security disability benefits. The department by rule may establish policies for monitoring and encouraging full engagement in the State Family Pre-SSI/SSDI program, including activities that promote family stability. The department shall offer participants the opportunity to participate in any suitable activity in the job opportunity and basic skills program under ORS 412.009.

SECTION 5. ORS 412.024 is amended to read:

412.024. (1) *[Aid, as defined in ORS 412.001, may not be granted to, or on behalf of, any applicant or recipient and for as long as the applicant or recipient refuses to]* **An applicant or recipient of aid, except for recipients of aid under the JOBS Plus Program established in ORS 411.878, must assign to the state any rights to support that may be due from any other person to a [from any other person such applicant may have personally or in behalf of any other] family member for whom the applicant is applying for or receiving aid. If aid is paid and received for the support of a child, the rights to child support that any person may have for the child are deemed to have been assigned by operation of law to the state. Notice of the assignment by operation of law shall be given to the applicant at the time of application for public assistance, and shall be given to any obligee who may hold some interest in such support rights by depositing a notice in the United States mail, postage prepaid, addressed to the last-known address of such person. Assignment of support rights to the state shall be as set forth in rules adopted by the Department of Human Services and the Department of Justice.**

(2) Except as otherwise provided in this subsection, an applicant or recipient who receives aid *[as defined in ORS 412.001]* shall cooperate with the Department of Human Services and the Department of Justice in establishing the paternity of the applicant's or recipient's child born out of wedlock and in obtaining support or other payments or property due the applicant or child. An applicant or recipient is not required to cooperate if there is good cause or some other exception to the cooperation requirement that takes into account the best interest of the child. The Department of Human Services shall adopt rules defining good cause, other exceptions to cooperation and non-cooperation by an applicant or recipient, and setting the sanction for noncooperation. The sanction may include total ineligibility of the family for aid, but in no situation may the sanction be less than a 25 percent reduction of the monthly grant amount. At the time an applicant applies for aid, the Department of Human Services shall inform the applicant, in writing, of the requirement of and exceptions to cooperation and the sanctions for noncooperation, and shall inform recipients, in writing, whenever eligibility for aid is redetermined.

(3) This section shall apply to:

(a) One-parent families receiving [recipients of] aid under ORS 412.001 to 412.069, 412.124 and 418.647 [only] as long as the aid is funded in whole or in part with federal grants under Title IV-A of the Social Security Act; and

(b) Two-parent families receiving aid under ORS 412.001 to 412.069 and one-parent families receiving aid under ORS 412.014, regardless of the funding source for the aid.

SECTION 6. ORS 412.124 is not operative for the period beginning July 1, 2011, and ending June 30, 2013.

SECTION 7. (1) The amendments to ORS 412.009, 412.014 and 412.024 by sections 2, 3 and 5 of this 2011 Act become operative on October 1, 2011.

(2) The amendments to ORS 412.014 by section 4 of this 2011 Act become operative on July 1, 2013.

SECTION 8. Section 1 of this 2011 Act is repealed on July 1, 2013.

SECTION 9. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House June 15, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 21, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State