



COMPILATION OF RESPONSES TO QUESTIONS FROM THE JOINT SPECIAL COMMITTEE ON CORONAVIRUS RESPONSE

Prepared for: Joint Special Committee on Coronavirus Response

Date: April 14, 2020

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

SUMMARY

The Joint Special Committee on Coronavirus Response (JSCVR) has been meeting to discuss [policy recommendations](#) to address the coronavirus (COVID-19) pandemic. Below is a compilation of responses to questions that were asked by committee members at JSCVR meetings on [Friday, March 20, 2020](#) and [Monday, March 23, 2020](#). If you have any further questions, please contact the Legislative Policy and Research Office at 503-986-1813 or LegislativePolicyandResearchOffice@leg.state.or.us.

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SMALL BUSINESS, ECONOMIC DEVELOPMENT, EMPLOYEE LEAVE, UNEMPLOYMENT INSURANCE (UI)

Policy 5 – Increase financial assistance directly to private and consumer-owned utilities to help low-income households and small businesses. Require the Oregon Public Utility Commission (PUC) oversight of private utility. Allocate \$__ million.

Staff was asked to reach out to the PUC about the broadband issue of still needing to submit paperwork and fees/payments.

The PUC does not have any requirements or authority over internet providers. Oregon is preempted from regulating the internet. However, many telecommunications providers also provide internet service. The reference to “paperwork and fees/payments” is likely referring to the annual recertification of the companies’ authority to provide telephone service, which is due March 31, 2020 and, according to the PUC, the majority of these providers find the online process to be relatively simple.

This may also be related to the Oregon Universal Service Fund (OUSF) or the Residential Service Protection Fund (RSPF), which are also available online and are critical to maintain as the disbursements from this fund are obligated, do not have a large ending balance, or contingency funds associated with them. In addition, the OUSF is used to provide subsidies to certain service providers to further the goal that service be available to everyone, while RSPF funds are directed to low-income customers.

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Policy 8 – Temporarily improve access to UI benefits.

Staff was asked to get a status update on the waiting week issue.

The Oregon Employment Department (OED) has noted that its legacy UI claim system has a built-in waiting week. In a March 29, 2020 e-mail to staff, OED provided the following:

Waiting Week: While there is some benefit to workers in eliminating the “waiting week,” it would not get people their benefit payments any sooner. The major contributing factor to how quickly people receive their first payment is how quickly we can process their claims. While we have already significantly increased how many we are processing, the unprecedented increase in claims means some significant delays, and removing the waiting week would not change this. It would, for some but not all people, mean they receive an additional week of benefits, and we recognize that benefit. There is significant work required to make this change in our outdated mainframe systems, however, and making those changes would both require the same resources as are needed to make other system changes that are offering more assistance to more people, and also creates a significant risk of unintended consequences, including delaying UI benefit payments.

Waiting Week and HR 6201: Legal authority exists to waive the waiting week, but doing so would require thousands of hours of time to program this change into our legacy technology systems. Making those changes would also introduce a serious risk of unintended consequences, including delaying benefit payments and causing benefit overpayments. We are prioritizing making the programming and system changes needed to implement recent federal legislation, which will provide more benefits to more people more quickly than would removing the waiting week.

Policy 9 – Amend definition in the Oregon Family Leave Act (OFLA) to cover leave for parents during statewide public health emergencies.

What has the Bureau of Labor and Industries (BOLI) concluded relating to a public health emergency as qualifying under OFLA for an employee taking leave from work to care for children not in childcare or school?

The OFLA provides for time-off for an employee to care for a sick child for an illness, injury, or condition that is not serious, or school closures by order of a public official during a public health emergency even if the individual child is not sick. A school closure by Governor Brown, based on the Centers for Disease Control and Prevention and the World Health Organization guidance, constitutes action to prevent a serious health crisis/pandemic. Children may or may not be at risk or create a risk by being together and thus require home care by parents and other caregivers.

Oregonians can use OFLA to take protected time off to care for their children during official school closures to limit the spread of coronavirus. This leave is protected, but not paid unless

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employees use available paid time-off they have accrued. Workers who work for an employer who has at least 25 employees, and meet other criteria are eligible for OFLA.¹

Policy 17 – Waive UI charges to employers during the emergency. Direct OED to spread UI rate increase across the system for the claim increase penalties incurred during the declaration.

In a March 27, 2020, call with the Governor's Coronavirus Economic Advisory Council, Kay Erickson, OED Director, indicated that the strong reserves of the state UI fund and broad federal funding for expanded UI needs in HR 6201 and the CARES Act should ensure the stability of the state UI fund, and that no additional funding or rate increases would be necessary. This statement was not accompanied by any data or analysis.

Staff was asked to research how the feds are proposing to adjust federal law on UI.

Federal Action: [HR 6201 Sec. 2 Div. D](#) enacts the Emergency Unemployment Insurance Stabilization and Access Act of 2020. The law requires the Secretary of Labor to make grants to states for the administration of unemployment compensation in this period of high demand. The law specifies calculation of the grant and delivers half of the balance by May 17, 2020 to states that demonstrate:

- they require employers to provide notification of the availability of unemployment compensation insurance at the time of separation, which may be based on model notification language issued by the Secretary of Labor;
- they ensure that applications can be filed, and assistance is available, in at least two of the following ways: in-person, by phone, or online;
- they notify applicants when an application is received and is being processed, and in any case in which an application is unable to be processed, provide information on the steps the applicant can take to ensure successful processing of the application.

The balance of the grant will be provided to states that demonstrate:

- a 10 percent increase in claims over the same quarter in the previous calendar year;
- an expressed commitment to maintain and strengthen access to the unemployment compensation system, including through initial and continued claims;
- steps taken or to be taken to ease eligibility requirements and access to benefits for claimants, including waiving work search requirements and the waiting week, and non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

The law also grants states additional flexibility to modify its unemployment compensation law and policies on an emergency or temporary basis with respect to work search, waiting week, good cause, or employer experience rating without approval from the Secretary of Labor. States that receive a grant under this law must submit a report with specified outcome data to the Secretary of Labor by March 18, 2021.

Section A Title II of the [CARES Act](#) establishes Pandemic Unemployment Assistance (PUA), which is UI benefits for those who are unable to work due to the COVID-19 public health emergency. PUA benefits are available to anyone unable to work, including independent

¹ See the temporary rule affecting the Oregon Family Leave Act: OARD Temporary Rule Filing - OAR 839-009-0230: <https://www.oregon.gov/boli/WHD/OST/Documents/OARD%20Temporary%20Rule%20Filing%20-%20OAR%20839-009-0230.pdf>

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contractors and individuals who have exhausted their state UI benefits. PUA benefits are calculated at the same rate as state UI benefits and are available for up to 39 weeks through the 2020 calendar year. Benefits for independent contractors are calculated using net income from all self-employment in the most recent tax year filed. The Act also allows participating states to provide an additional \$600 in Federal Pandemic Unemployment (FPU) Compensation, which is paid weekly in addition to the regular state UI or PUA benefit. FPU Compensation is available through July 31, 2020.

The Act provides participating states with full reimbursement for all PUA and FPU benefits and administrative expenses.

The Act also provides for federal reimbursement to the state UI trust fund equal to one-half of all UI benefits paid from March 13, 2020, to December 31, 2020, and full federal funding for partial UI benefits under the [Oregon Work Share UI program](#).

State Actions: On March 17, 2020, and in response to EO 20-03, OED adopted [temporary rules](#) for UI provisions for the unique situations arising due to COVID-19. The rules establish that people are not disqualified from receiving UI benefits if they are discharged, quit, fail to seek employment, or fail to accept an offer to work because of COVID-19 related situations, including illness, quarantine, order or advice from medical providers or public health officials, cessation of operations, to care for family members dealing with illness or quarantine, to care for a child due to closures, or when working would cause the worker to violate a Governor's directive regarding limitation of activities.

Staff was asked to get an update on claims and status (total reserves) of the UI fund; and an estimate of how robust the UI fund will need to be to support anticipated future claims.

As noted above, in a March 27, 2020, call with the Governor's Coronavirus Economic Advisory Council, Kay Erickson, Director of the OED, indicated that the strong reserves of the state UI fund and broad federal funding for expanded UI needs in HR 6201 and the CARES Act should ensure the stability of the state UI fund, and that no additional funding or rate increases would be necessary. This statement was not accompanied by any data or analysis.

In a March 29, 2020 e-mail to staff, OED provided the following:

Claims Status, UI Funds Status with HR 6201: We are updating claims information on our public facing website as it becomes available. <https://www.qualityinfo.org/covid-19>

Oregon entered this economic challenge with the best funded UI Trust Fund, having over \$5 billion in that fund. While we continue to monitor it closely, there are many variables that make projecting into the future difficult at this time, including the rapid changes to projections caused by federal legislation passing and, very significantly, the uncertainty of how long measures to mitigate the spread of the coronavirus will be needed and how long, and widespread, the economic consequences of those actions persist.

Because the statutory self-balancing formula for determining Oregon's UI tax rates has worked so well for decades, weathering even the stresses of the Great Recession, there is not a short-term risk to the UI Trust Fund, and we will continue to update stakeholders as get sufficient information to make projections about its longer term future.

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More details on the Trust Fund: The Unemployment Insurance Trust Fund (UITF) balance of 2/29/2020 was \$5,084,547,232.43 (https://www.treasurydirect.gov/govt/reports/tfmp/tfmp_utf.htm). In terms of assessing the solvency of the UITF, the Oregon UITF balance as a percent of total state wages ranks first among all states. The UITF solvency level, using the “Average High Cost Multiple” is 2.51, which means that even if no new taxes were collected, the UITF would have been able to pay benefits in a high-cost period for 2.51 years before drawing the UITF to zero (high-cost period covers the Great Recession). More detailed information is available in the attached 2020 solvency report from the U.S. Department of Labor. The Oregon UITF is in a relatively strong position, but will require careful stewardship in the coming years.

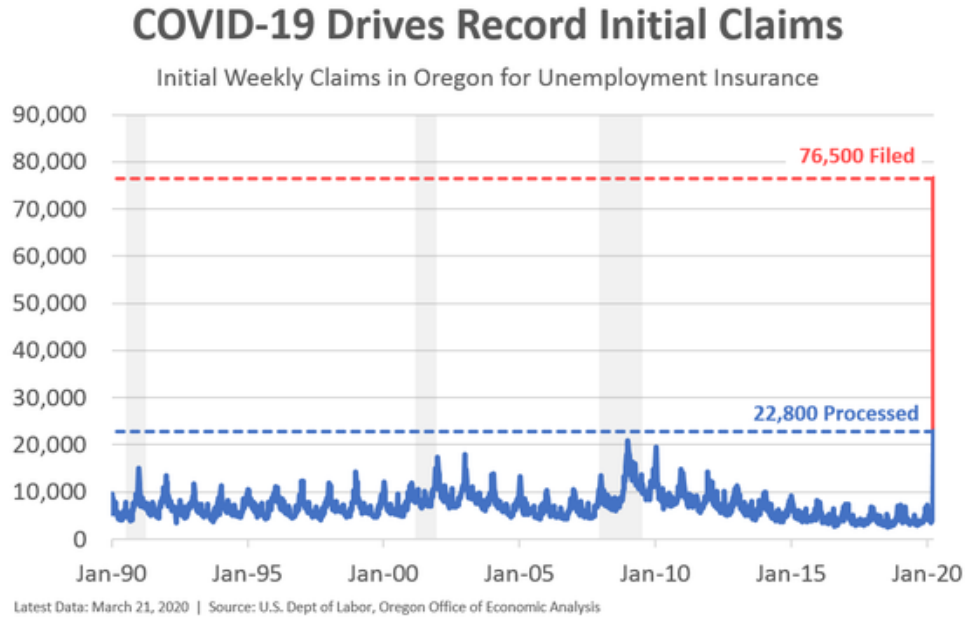
Updates to the UITF forecast have been delayed due to the rapidly evolving health, policy, and economic condition. In addition to the increased workload, there simply has been a lack of information on many of these fronts. However, this week several major pieces of federal legislation were passed which provided more information for developing an accurate UITF forecast. Most notably, HR 748—Coronavirus Aid, Relief, and Economic Security Act (Sections 2102-2111, 2115)—and HR 6201—Families First Coronavirus Response Act (Division D Emergency Unemployment Insurance Stabilization and Access Act). The UI division has a meeting scheduled this afternoon to discuss how the changes will impact our programs and forecasts. Here is a summary of the major new provisions affecting the UITF:

- PUC - Pandemic Unemployment Compensation program (HR 748)
- PUA - Pandemic Unemployment Assistance program (HR 748)
- PEUC - Pandemic Emergency Unemployment Compensation (HR 748)
- Federal reimbursement of 50% of all UI contributions owed by reimbursing employers for the period March 13, 2020 – December 31, 2020 (HR 748)
- Federal payment of first waiting week (HR 748)
- Flexible UI benefits - easing eligibility requirements and access to UI, including modifying or suspending work search requirements

To inform the UITF forecast and employment impacts, we are strengthening communication with the Employment Department’s Communications and Research Division and the Department of Administrative Services’ (DAS) Office of Economic Analysis.

Regarding the status of claims, we are seeing that COVID-19 is driving a record number of UI initial claims. Initial claims are one of the best real-time indicators available about the economic condition. Our staff managed to process a record number of claims without warning, but the swiftness and severity of the changes in recent weeks was so large that there is a backlog of claims being processed today. When we put it all together, we get a chart that looks something like the following:

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As the current backlog is processed, they will begin to show up in the reported data. This surge in initial claims is probably tied to the first round of social distancing measures, but as those policies ramp up or cover more industries or regions of the country, we will see more workers file for UI. Furthermore, not everyone gets laid off one day and files for UI the next day.

Identify workers who have returned to work?

LPRO has submitted this question to OED and the agency is working on a response.

OED is maintaining a [webpage](#) with information for employers, workers, and job seekers impacted by the COVID-19 virus. The following is from the [FAQs](#) posted to that webpage.

Do I have to look for other work if my employer temporarily closes because of the coronavirus?

If your employer expects to re-open in the future, you do not actively have to look for another job to receive benefits. To get benefits, you must:

- be able to work;
- stay in contact with your employer; and
- be available to work when your employer calls you back to work.

Note that when filing an online claim, our systems require you to enter your work search. You can bypass this by marking the temporary layoff option.

If you are not still in contact with your employer, you are currently considered to be actively seeking work if you are doing what you can to be prepared to return to new work or find new employment.

- Note that when filing an online claim, our systems require you to enter your work search. You can bypass this by marking the temporary layoff option.
- During your temporary layoff period, please keep a written work search log in case it is requested in the future.

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WorkSource Oregon is [continuing to provide job seeker services](#), including re-employment guidance, resume assistance, interview guidance, job-search strategizing, and connections to training and career development guidance. Starting April 1, all regularly scheduled workshops will be available virtually.

In a March 29, 2020 e-mail to staff, OED provided the following:

Work Search Requirements: We regularly identify people who have returned to work, not just by asking people each week when they file a claim whether they have done so, but also by checking other records to see when payroll records or other documents might indicate people have returned to work without telling us. The temporary rule that modified the work search requirement for unemployment insurance benefits can be cancelled when circumstances warrant, either returning to the normal work search requirements or, depending on circumstances, being modified in some other way.

Policy 19 – Repurpose flexible funds within Business Oregon to provide direct relief to certain impacted sectors. Allocate \$__ million.

Have Business Oregon identify what they need that is flexible and simple for businesses to access. Include banks (and credit unions).

Proposals to assist certain industry sectors using existing and proposed resources at Business Oregon will be considered by the Governor's Coronavirus Economic Advisory Council. The most flexible funds at Business Oregon are in the Strategic Reserve Fund (SRF). The SRF is a discretionary tool funded by lottery dollars used for a variety of projects impacting economic development. Projects considered for SRF funding are typically brought forward by regional development officers and then put through an extensive internal vetting process, with projects ultimately going to the Governor's desk for final approval.

What is the percentage of lost revenue – why 25 percent and how to put that into a formula that considers difference in industry or business costs (personnel vs. other expenses)?

Identifying a formula for lost revenue by sector, industry, or business cash flow situation would be very challenging. Even identifying revenue periods for comparison to show reductions in revenue is challenging. For example, one proposal from Brookings suggests averaging January and February 2020 revenue and comparing that to March 2020 revenue to identify a reduction of income. But this type of comparison doesn't work for seasonal businesses with their slowest periods in January and February and who would typically see a pick-up in revenue in March or April.

Policy 27 – Fund for those who are ineligible for UI. Allocate \$__ million.

This proposal may be reconsidered based on federal action. Section A Title II of the [CARES Act](#) establishes Pandemic Unemployment Assistance (PUA), which is UI benefits for those who are unable to work due to the COVID-19 public health emergency. PUA benefits are available to anyone unable to work, including independent contractors and individuals who have exhausted their state UI benefits. PUA benefits are calculated at the same rate as state UI benefits and are available for up to 39 weeks through the 2020 calendar year. Benefits for independent contractors are calculated using net income from all self-employment in the most recent tax year filed. The Act also allows participating states to provide an additional \$600 in Federal Pandemic

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Unemployment (FPU) Compensation, which is paid weekly in addition to the regular state UI or PUA benefit. FPU Compensation is available through July 31, 2020.

The Act provides participating states with full reimbursement for all PUA benefits and administrative expenses.

Below are two examples which show how the PUA benefits would work for individuals who are not eligible for UI benefits:

Example 1:

A self-employed individual who last filed a tax return for 2018. That tax return shows \$50,000 in net self-employment income.

The weekly benefit is 1.25 percent of the base year wages: $\$50,000 \times .0125 = \625

This individual would be eligible for the maximum weekly PUA benefit (based on formula in state law) of \$538 for 39 weeks. This individual would also be eligible for an additional \$600 in weekly FPU Compensation through July 31, 2020, for a total weekly benefit of \$1,138.

Example 2:

An independent contractor who last filed a tax return for 2019. That tax return shows \$25,000 in net self-employment income.

The weekly benefit is 1.25 percent of the base year wages: $\$25,000 \times .0125 = \312.50

This individual would be eligible for a weekly PUA benefit of \$313 (benefits are rounded up to the nearest dollar) for 39 weeks. This individual would also be eligible for an additional \$600 in weekly FPU Compensation through July 31, 2020, for a total weekly benefit of \$913.

In a March 29, 2020 e-mail to staff, OED provided the following:

Self Employed and Independent Contractors:

You asked about the impact of adding self-employed people and independent contractors to the UI program. The federal CARES Act that is likely to be enacted in the near future, creates a federally funded UI like program that does this.

What is existing and proposed federal assistance to small business (provision for wages for freelancers/gig economy)?

Small Business Administration (SBA) loans – HR 6074 authorizes expenses and allocation to the Disaster Loans Program (Section 7(b) of the Small Business Act). Classifies coronavirus as disaster under the Disaster Loans Programs Account.

The SBA Economic Injury Disaster Loans are available to small businesses, small agricultural cooperatives, and most private nonprofit organizations that have suffered substantial economic injury in a declared disaster area. Substantial economic injury means being unable to meet obligations and pay ordinary and necessary operating expenses. Loans provide working capital for the business to survive until normal operations resume after a disaster. Applications for these loans must typically be received within nine months of the disaster declaration. SBA's Economic Injury Disaster Loans offer up to \$2 million in assistance and the interest rate is 3.75

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percent for small businesses and 2.75 percent for nonprofits. Loan terms may be up to 30 years, based on a borrower's ability to repay.

Staff is gathering data from OED/Department of Revenue (DOR) on the types and number of self-employed, freelancers, independent contractors, etc.

Describe the universe of positions ineligible for UI that will likely need support.

In order to be eligible for UI benefits, a worker must have been paid at least \$1,000 in "subject wages" in the base year and have total base year wages that are at least one and one-half times the wages paid in the highest calendar quarter of the base year, or have worked at least 500 hours and were paid subject wages during the base year. "Subject wages" are earnings on which the employer paid UI taxes.

Oregon law exempts a number of work activities from subject employment. Workers in these fields are not earning subject wages, and may not be eligible for UI benefits:

- Certain students working for their school or an organized camp;
- Certain patients working for a hospital;
- Nursing students working for a hospital;
- Independent contractors;
- Golf caddy service;
- Certain agricultural workers;
- Taxicab and similar drivers;
- Certain logging truckers;
- Certain language translators and interpreters;
- Certain domestic service and child care services;
- Certain fishermen and other maritime services;
- Parenting and foster parenting;
- Community work and training programs;
- Work for a nonprofit by an individual who cannot be readily absorbed in the competitive labor market;
- Freelance journalists;
- Newspaper delivery;
- Salesperson compensated by commission;
- Sports officiating;
- Staff for nonprofits compensated solely by gratuity, prize, scholarship, reimbursement of expenses, or ski passes; and,
- Boating guides.

What is the relationship between this assistance to UI and WARN Act resources?

[The Worker Adjustment and Retraining Notification \(WARN\) Act](#) is a federal requirement for employers with >100 FTE to give a 60-day notice to the affected employees and both state and local government prior to a plant closing or mass layoff. Subject employers must file [WARN notices](#) with the Higher Education Coordinating Commission (HECC).

HECC also administers the federally-funded [Dislocated Worker Program](#) which offers help to employers and workers before and during a layoff. Dislocated workers can register online with [WorkSource Oregon](#), a network of public and private partners who designed to connect local resources and get workers back to work as quickly as possible following a layoff, closure, or disaster.

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The Dislocated Worker Program also provides [Training Unemployment Insurance](#), which lets eligible workers attend school while receiving UI benefits. The program removes the work search requirements from weekly claims while workers attend full-time school.

Staff was asked to research existing programs that could be implemented quickly to address a population that doesn't pay into any safety net.

Disaster Unemployment Assistance – One way to cover workers who are not usually covered by the UI system under a Presidential disaster declaration is through Disaster Unemployment Assistance (DUA). The disaster declaration must specifically grant Individual Assistance and DUA is funded by Federal Emergency Management Agency and administered by OED. Benefits are payable in the first week after the week in which the President declares a major disaster. Unlike regular unemployment, self-employed individuals may be eligible for benefits. Applicants have 30 days from the date the disaster was announced to apply (with provisions for good cause if an application is late). Proof of earnings (tax forms) for the prior calendar year is required and must be submitted with the application.

DUA payments are relatively small and cannot exceed 50 percent of the average benefit amount in the state. This amount wouldn't replace lost wages, but could be invoked quickly and is less complicated than passing legislation to expand UI eligibility to self-employed individuals

Small Business Assistance – There are two fundamental ways to support small firms: loans or direct grants. A loan program could provide zero- or low-interest loans to firms under a certain size that are impacted by coronavirus. The state could also make direct grants to firms to cover some share of payroll or fixed expenses or revenue losses. Examples from other states include the following:

- New Jersey – [Assembly Bill 3845](#) authorizes the New Jersey Economic Development Authority (NJEDA) to provide grants during periods of emergency declared by the Governor, such as the declaration regarding COVID-19, and for the duration of economic disruptions due to the emergency. The bill gives the NJEDA the power to offer grants for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing of a project, including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority deems reasonable, during such period. The bill also extends the uses of the economic growth account in the Economic Recovery Fund to the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing by small and medium-size businesses and not-for-profit corporations of certain projects, including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority deems reasonable, during such periods of time.
- Florida - Gov. Ron DeSantis has activated the [Emergency Bridge Loan Program](#) for small businesses impacted by COVID-19. The Florida Small Business Emergency Loan Program was created in response to Hurricane Andrew in 1992 to bridge the gap between a disaster occurring and when businesses can secure longer-term financial resources. Small business owners with two to 100 employees located in Florida affected by COVID-19 can apply for short-term loans up to \$50,000. These loans are interest-free for up to one year and are designed to bridge the gap to either federal SBA loans or commercially available loans. To be eligible, a business must have been established prior to March 9, 2020, and demonstrate economic impacts as a result of COVID-19.

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- Massachusetts – The \$10 million [Small Business Recovery Loan Fund](#) will provide emergency capital up to \$75,000 to Massachusetts-based businesses impacted by COVID-19 with under 50 full- and part-time employees, including nonprofits. Loans are immediately available to eligible businesses with no payments due for the first six months. The Massachusetts Growth Capital Corporation (MGCC) has capitalized the fund and will administer it. This funding is being offered with no payments due for the first six months, then 30 months of principal and interest payments and no prepayment penalties.
- State of Maine COVID-19 Relief Consumer Loan Program – The COVID-19 Relief Consumer Loan Program provides no- to low-interest consumer loans up to \$5,000 (minus any unemployment benefits received by the borrower) through a loan guarantee program involving Maine's banks, credit unions, and Finance Authority of Maine (FAME). \$500,000 has been appropriated to support a total of approximately \$5 million in total lending statewide by participating lenders. The program is voluntary on the part of Maine lenders.

Interested borrowers contact their local bank or credit union to see if the lender is offering this program and to apply. Any Maine resident, including those who are self-employed, who has experienced a reduction in income since January 1, 2020 as a result of COVID-19 is eligible. A borrower who has received a loan may apply to the same credit union or financial institution for an additional loan for each 30-day period the employee remains eligible. Affected individuals are limited to three (3) loans.

Program page: <https://www.famemaine.com/business/programs/covid-19-relief-loan-programs/covid-19-relief-consumer-loan-program/>

Legislation (see Part I on page 9):

<http://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0789&item=2&num=129>

CAUSA Proposal – CAUSA has proposed a community-based grant system for wage replacement that sets up an emergency fund for non-profit organizations who currently serve restaurant workers, caregivers, immigrants, refugees, day laborers, farmworkers, and people of color. The Oregon Worker Relief Fund (OWRF), based at the Innovation Law Lab, would work with culturally specific nonprofit organizations who can provide service to individuals.

The lead organization develops the universal application and intake system used by all community-based organizations (CBOs). A "small" percentage of funds is used by CBOs for administration and operating costs. CBOs selected to participate must provide culturally specific services, assist those without internet access, verify required documents, process applicants to receive funds from lead organization, and conduct surveys to better understand community impacts.

Applicants fill out a short application; priority based on the following criteria:

1. Must live in Oregon;
2. Had a job (income?) in Oregon that they lost due to pandemic;
3. Are not eligible for UI or other temporary wage-replacement programs.

OWRF would seek to cover 60-70 percent of lost wages (dependent on funding) subject to a maximum of \$590 per week and only wages lost in direct relation to COVID-19 enacted emergency management policies. Distributions will be made as funds are available within 3-5 business days.

Federal government paid sick leave application to government

Tuesday, April 14, 2020

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LPRO staff is seeking additional information.

Policy 43 – Reduce regulations/protections on workforce. Suspend penalties and provisions of predictive scheduling. Temporarily suspend the maximum hours for manufacturing workers.

Staff was asked to research predictive scheduling legislation and identify provisions related to flexibility.

Oregon’s predictive scheduling law requires employers to provide compensation for each employer-requested schedule change that occurs without advance notice. [ORS 653.455\(3\)\(h\)](#) removes the additional compensation requirement when “operations cannot begin or continue due to a natural disaster or a similar cause not within the employer’s control.”

The Labor Commissioner [issued guidance](#) which indicates that she believes that the current emergency declaration triggers the statutory relief under ORS 653.455(3), that the Bureau of Labor and Industries’ interpretation of the law’s requirements and penalties “will account for these realities and common sense,” and encourages employers to engage in proactive communication with employees about their operations and schedules as they seek to comply with federal, state, and local emergency declarations.

The language in ORS 653.455(3)(h) is intentionally broad and is being interpreted by the Labor Commissioner to include the current emergency.

Can the Governor suspend the maximum hours a worker may work in a day or week?

Oregon’s overtime statutes are administered by the Labor Commissioner. The Bureau of Labor and Industries (BOLI) provided further information on the [overtime rules for Oregon’s manufacturing industry](#).

BOLI has adopted [temporary rules](#) “to provide a timely, orderly, and consistent framework to keep vital manufacturing moving while maintaining worker protections.” The rules establish that a statewide public health emergency is an emergency for which the maximum working hours for manufacturing may be waived and establish a process for an employer to provide notice of an emergency exemption to BOLI. Employers operating under an exemption:

- Must pay time and a half for hours worked in excess of 40 hours per workweek;
- May not request or allow an employee work more than 13 hours per day and 91 hours per week;
- Maintain social distancing protocols as required by EO No. 20-12;
- Must still provide employees with adequate time to consume a meal, rest, and use the restroom; and,
- Must not coerce employees into consenting to work more than 55 hours in one workweek; employees may revoke their consent at any time.

HOUSEHOLD STABILITY & HUMAN SERVICES

Food insecurity is a family’s inability to provide an adequate amount of healthy food for everyone living in the household. Several factors can cause food insecurity, and the COVID-19 pandemic will contribute to an increase in the number of food-insecure children due to layoffs, unexpected expenses, housing concerns, and school closures.

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Policy 3 – Provide additional support and flexibility to DHS to expedite SNAP benefits, TANF, and WIC, including waiving interviews where possible and expanding certification periods.

Are schools offering drive-thru lunch pickups for families and, if not, are there plans for accommodations for families if the need exists?

Some Oregon communities and schools are organizing free lunch pick-up locations for students and food-insecure families. In most districts, families can drive to a school site and pick up breakfast and lunch. Each school site has specific times where both breakfast and lunch can be picked up daily. The Oregon Department of Education (ODE) has created a web page that provides direct links to each school district's web page with information on sites providing meals during school closures.

The US Department of Agriculture (USDA) hosts a Summer Food Rocks website providing site locations for Summer Food Service Program and Seamless Summer Option Meal Delivery sites operated during the summer. The USDA will be activating the site during coronavirus school closures.

Currently, Oregon schools are not being reimbursed by the state for these additional meals. Some of the meals may qualify for federal reimbursements.

Are school buses used/able to be used for food drop off?

It has been reported that school lunch pick-up locations are not being visited by many families. This could be from lack of awareness or transportation barriers. Families who rely on public transportation have difficulties accessing the lunch locations due to conflicting information or fears regarding the use of public transportation and/or transportation services like Uber or Lyft. School buses are being used to deliver food at school bus stops. Additional school bus stops have been added for this purpose. Schools can deliver a week's worth of food to homes. ODE applied for federal waivers that would allow them to drop food off at homes and meal pick-up sites. Attachments A and B at the end of this document provide a list of the waivers and other helpful information sent to schools.

Can schools provide food for the elderly and other populations in need?

According to ODE, providing food for elderly or other populations in need is more challenging, but if a national disaster declaration is issued by the President, there would be more flexibility on how school sites could be used.

How does the Department of Human Services plan to serve Oregonians accessing the Supplemental Nutrition Assistance Program (SNAP) for the first time, and how will they get the word out about available programs to Oregonians who do not have internet access?

The Department of Human Services (DHS) is promoting and encouraging online access for SNAP participants. The best option for Oregonians without internet access is to call the office and have a worker assist them with their applications or visit a branch office (all remain open).

Is DHS experiencing barriers in creating flexibility related to SNAP? Are there barriers the legislative body can help with?

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Yes, DHS' ability to collect telephonic signatures is not possible with their existing system. If the ONE/IE system will accept and record a telephonic signature, this technology should be implemented now, and a database should be set up to allow for the audio files to be stored and later attached to the household's ONE/IE case.

Are there exceptions needed for SNAP?

DHS is seeking approval on SNAP waivers allowing for mass emergency allotments for existing households, allowing individuals to regain eligibility after meeting time limit requirements, and that expand options of foods that can be purchased using EBT benefits (example: hot/prepared foods).

DHS is working with ODE on the implementation of Pandemic P-EBT² which will provide food benefits to households with children who receive free or reduced-price school meals regardless of SNAP eligibility. DHS is in the process of testing this in their systems and gathering information/data from ODE to see if this will be possible.

How much flexibility is there/what changes are already in effect for SNAP?

Branches are practicing social distancing efforts. These include setting up phones for participants to use to talk to workers, conducting interviews over the phone and not requesting interviews when no income is reported by household.

DHS received approval on Friday, March 20 to extend certifications for six additional months without requiring an application for the months of March, April, and May. SNAP households are no longer required to complete an Interim Change Report (852) in order to continue with their certification period. This only applies to reports coming due in April and May 2020.

DHS has requested SNAP waivers and has begun to implement flexibilities for SNAP interviews, verification, and determining good cause for Able Bodied Adults Without Dependents (more information has been requested from Food and Nutrition Services).

What other changes has the DHS Self-Sufficiency Program made to better serve Oregonians during this state of emergency?

Employment Related Day Care (ERDC). To support Oregon's working families dealing with the spread of COVID-19, DHS has made temporary changes, effective immediately, to help more low-income, working families access child care and help providers stay in business during the state of emergency. The changes to ERDC include:

- eliminating of co-pays for eligible families;
- increasing the income limit for new applicants from 185 percent of the federal poverty level to the higher exit limit (approximately 85 percent of the State Median Income); and
- providing stability to providers by making payments for absences or temporary closures related to COVID-19 for both ERDC and TANF child care. For more information on these changes, see the March 17, 2020 news release [here](#).

² In 2009, after schools closed due to H1N1, Congress authorized the expansion of SNAP benefits to Pandemic Supplemental Nutrition Assistance Program (P-SNAP) which provided access to SNAP benefits for eligible students who were enrolled in a school that closed. The same concept is included in the Families First Coronavirus Response Act (H.R. 6201, Sec. 1101) and called P-EBT.

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Policy 10 – Increase ability of community partners to do outreach and respond to basic needs of self-quarantined individuals in high-risk households. Allocate \$___ million.

Identify current supports for seniors, including distribution of supplies as well as services for those in self-isolation

- DHS is prioritizing the introduction of COVID-19 supports into communities where vulnerable adult populations live including those who live in their own home.
- DHS directed community meals sites to close and offer alternatives, such as take-home box lunch service.
- DHS encouraged the increased use of home-delivered meals to support recipients remaining in their homes.
- DHS is waiting for final federal approval for more flexibility in Medicaid and Older American Act programs in order to transfer funds from congregate meals to home-delivered meals, increase Medicaid-funded Home Delivered meals from one per day to two per day, and fund meals for caregivers who are sheltering in place with their consumer, and combat isolation through technology, telephone reassurance programs, etc.
- DHS is working on creating simpler and faster ways to get volunteers and paid staff into the system to support consumers (especially those who are in their own homes and may not be able to leave).

Research whether a definition for “high-risk household” exists in statute or rule. Write up a clear definition if one does not exist.

There is no definition of “high-risk household” in statute or rule that is directly germane. Below is a suggested definition for use as common language for physical health vulnerability.

In relation to COVID-19, a “high-risk household” is a household that includes an individual(s) the CDC has indicated is at higher risk for severe illness from COVID-19.

Those individuals:

- Are aged 65 years and older;
- Live in a nursing home or long-term care facility;
- Have other high-risk conditions which could include:
 - chronic lung disease or moderate to severe asthma,
 - serious heart conditions,
 - immunocompromised system including cancer treatment, or
 - severe obesity (body mass index [BMI] >40) or certain underlying medical conditions, particularly if not well controlled, such as those with diabetes, renal failure, or liver disease might also be at risk;
- Are unsheltered homeless. Unsheltered homeless lack immediate access to hygiene and sanitation facilities, may live in crowded areas and some have a higher risk of moderate to severe disease and often have multiple chronic medical conditions.

Domestic Violence and Child Protection Services

The risk of personal safety increases in social isolation, and shelters and crisis programs protecting children and adults from domestic violence anticipate a significant increase in incidents and needs for services. Oregon’s crisis hotlines have seen a significant increase in

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calls as more people are confined to their homes. Shelters and crisis programs provide a range of emergency services for those in crisis, including sheltering victims in need, providing hotel vouchers, counseling, and in-person health screenings.

The Oregon Coalition against Domestic and Sexual Violence (OCADSV) posted a list of impacts to shelters and programs across the state and announced a suspension of in-person hospital advocacy services. Children's Advocacy Centers, which provide essential services for children who suffer from abuse and reduce the incidences of abuse by working alongside families during times of significant stress, have limited hours and started screening children and families for illnesses prior to offering services within each center. Some shelters and centers will be forced to close due to limited means for providing services to families while following social distancing guidelines.

Temporary Assistance for Domestic Violence Survivors (TA-DVS) - DHS is taking extra precautions regarding domestic violence cases during the state of emergency. They started three initiatives for support detailed below:

- For safety reasons TA-DVS applications should be processed face-to-face, however based on the survivor's preference, these can now be processed by phone. All TA-DVS applications are to be processed immediately. DHS has provided staff additional resources and support on mobile and technology safety precautions.
- Additional domestic violence resources are being sent to all DHS staff, including but not limited to: Domestic Violence National Hotline, statewide DV resources, connection to advocates, resources on mobile safety, mobile advocacy resources, and child-related resources. Reminders are being sent to DHS staff regarding available resources for persons experiencing domestic violence.
- Currently, DHS is preparing resources and information to share with the community showcasing local and state domestic violence resources, how to apply for the TA-DVS program, and how to get in contact with DHS offices for questions.

Family Court Hearings and Operations

Families involved with the courts are impacted by the halt of hearings and court operations. Some family court hearings have been postponed, leaving families in limbo without clear direction on following isolation guidelines without disrupting court orders. The lack of guidance for lawyers has led to inconsistent conduct toward families with unresolved custody matters. Furthermore, children in families with informal custodial agreements are also at risk of contracting or spreading the virus if they are moving between households during the "stay home" order.

Current Actions by the Courts

- March 18, 2020 – Trials and court hearings postponed by order of the Chief Justice, except proceedings involving people in jail with a legal right to a speedy trial, civil commitment hearings, and certain protective order, family law, guardianship, and treatment court proceedings. The order can be found [here](#).

Policy Options

- Require courts to hold timely hearings on temporary custody/parent time orders, parenting time enforcement orders, and status quo orders by video/phone, instead of postponing them.
- Temporarily allow ex parte orders of assistance (directing law enforcement to bring a child back to the parent who has custody) to be heard.

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- Request a Supreme Court opinion that quarantine, including level of quarantine, is a medical decision to be made by a custodial parent and make-up time will be appropriate at a later date.
- Issue specific, detailed guidance and/or orders to all families with children regarding the movement between households during isolation.

Services for Individuals with Intellectual, Developmental, or Physical Disabilities

Services for people with disabilities range from assistance with daily household functions (such as grocery shopping and cleaning) to cooking, dressing, and bathing. Sheltering in place, social distancing, and self-quarantining creates a significant disruption for people receiving these compulsory services as well as providers who are essential for their clients. Direct Support Providers (DSPs) and Personal Support Workers (PSWs) currently are not considered “emergency workers” and thus do not have access to Personal Protective Equipment (PPE), child care, and other requirements for providing safe, quality care during the pandemic.

Policy Options

- Lift overtime limitations on service providers/allow providers to use overtime pay
- Suspend restrictions on family/relative caregivers providing essential care services
- Allow payment for providers assisting clients in hospitals
- Ensure continuation of supportive services upon hospital discharge
- Provide support workers with paid sick leave
- Classify DSPs and PSWs as “Health Care Workers” or “emergency workers” so that they may access essential resources such as PPE, access to child care, etc.
- Provide DSPs with access to household essentials (toilet paper, cleaning supplies)
- Extend bed holds to 60 days to allow residents in care facilities to spend time with family, visit a hospital if needed, etc.
- Authorize and require insurers cover 90-day prescription refills
- Include nondiscrimination protections with all policy changes

HOUSING, HOMELESSNESS, EVICTIONS & FORECLOSURES

Policy 2 – Increase access to residential rental assistance through Emergency Housing Assistance (HEA) through CAPs. Allocate \$____ million.

Can a rent freeze or prohibition on rent increases be applied retroactively after March 9, 2020?

Yes, it’s possible, but discouraged. Legislative Counsel’s office provided an opinion concerning retroactive application which is appended to this document. No other states have acted to freeze rent at this time, and no discussion of retroactive application of same has been identified.

Do current price gouging protections cover/apply to large rent increases?

Other protections exist. In most situations, residential rent may not be increased within the first year of a month-to-month tenancy. And, in most situations, residential rent may not be raised more than seven percent plus the average consumer price index (CPI) for the Western region in any 12-month period. However, this is not applicable to new construction, resetting rent for most new tenancies, or subsidized housing.

“Price gouging” typically refers to products and services--not rent increases--but an argument or theory could be advanced that in these unprecedented circumstances, a landlord seeking to

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maximize rents immediately following a pandemic declaration constitutes price gouging. Legislative Counsel's office provided an opinion about that likelihood which is appended to this document.

Policy 30 – Mortgages: forbear mortgage payments for 90 days from their due dates or offer mortgagors an additional 90-day grace period to complete trial loan modifications and ensure that late payments during the pandemic do not affect their ability to obtain permanent loan modifications. Require low-interest, no-penalty repayment period.

What actions are the feds taking related to credit score protections?

The Disaster Protection for Workers' Credit Act (Senate Bill 3508) was introduced in Congress on March 17 and provides for a four-month moratorium on negative credit reporting and longer restrictions for individuals experiencing "lasting financial hardship." The bill is pending.

Does the state have the authority and/or what authority is needed to prevent late payments from affecting credit scores?

State action intending to restrict negative credit reporting would only impact Oregon-licensed financial institutions, as nationally chartered financial institutions, regulated at the federal level, would be exempt.

As of March 24, some, but not all, mortgage companies are voluntarily suspending negative credit reporting for homeowners unable to make monthly payments due to COVID-19. The Consumer Financial Protection Bureau has provided guidance (last updated 3/19/2020) encouraging households to reach out to their lenders if they are having difficulty making payments. The three major credit bureaus, Equifax, Experian, and TransUnion have similar guidance.

Who is/not covered by emergency foreclosure/eviction prevention measures?

Homeowners - Residential mortgages, impacted financially by COVID-19 and owned by Fannie Mae and Freddie Mac are eligible for an automatic 90-day forbearance, during which time homeowners will not incur late fees or negative credit reporting ([link](#)). Foreclosure and other legal proceedings will be suspended for these homeowners. Fannie Mae and Freddie Mac servicers are directed to work with impacted borrowers during this 90-day period to explore longer-term interventions and solutions to their financial hardships, including loan modification and/or extended forbearance periods for up to one year.

The U.S. Department of Housing and Urban Development (HUD) announced a foreclosure and eviction moratorium on March 17 for FHA-Insured loans. No information regarding credit reporting or loss mitigation has been widely issued since.

While homeowners impacted by COVID-19 are currently likely to experience significant waiting times when reaching out to their mortgage servicer by phone (i.e., waits on hold are significant, surpassing an hour in many cases), depending on who owns their mortgage (e.g., Fannie Mae, Freddie Mac, FHA, State of Oregon, etc.), support may be available in the form of loan forbearance. A loan forbearance is a temporary lending provision that allows for a borrower to "skip" payments and have unpaid balances and accrued interest capitalized, often with a term extension, that results in the loan being extended by the equivalent number of months during which payments were not collected.

Tuesday, April 14, 2020

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At this time, homeowners whose loans are not owned by Fannie Mae, Freddie Mac, or insured by FHA, may lack protections against foreclosure, late fees, negative credit reporting, and eviction. This includes whole loan residential mortgages, where risk is maintained by the originating lender. Homeowners are encouraged to contact their servicer, or a HUD-certified counseling agency to explore options available to them.

Renters – Renters are seeing relief through industry action as well as the Federal Housing Finance Agency (FHFA) provided guidance ([link](#)) to Fannie Mae and Freddie Mac today (March 24) requiring that mortgage forbearance be available to multi-family building landlords for up to three months, provided that they suspend all eviction activities for renters unable to make their rent due to the impact of coronavirus. Despite this FHFA guidance, there has been no overarching federal guidance on commercial real estate loans to date for landlords, or renters, on credit reporting or resolution options for those impacted by the crisis.

Emergency rent assistance is being considered in current relief measures by Capitol Hill legislators. Current reports suggest that \$10 billion may be allocated for short-term rental support. If passed as currently envisioned, funds would be disbursed to states through HUD's Community Development Block Grant (CDBG) program. In Oregon, CDBG is administered through Business Oregon's Infrastructure Finance Authority, for largely non-housing purposes.

Policy 31 – Homeless shelters: time limited super-siting as listed in HB 4001 (2020), including amendment regarding church parking lots and car camping.

Brief summary of HB 4001 (2020):

Emergency Shelters – Defines “emergency shelter” as a building that provides shelter on a temporary basis for individuals and families who lack permanent housing. Limits the use of a building designated as an emergency shelter to emergency shelter use, except upon approved application of a permit for other use under current land use as a local land use regulation. Requires local governments to approve an application for the development or use of land for an emergency shelter if certain requirements are met, including being operated by a local government, an organization with at least two years' experience operating an emergency shelter using best practices, or a nonprofit partnering with another listed entity.

Allows shelters to provide various on-site services at no charge to individuals served by shelters. Specifies that a shelter may include a youth shelter, winter or warming shelter, shelter or family violence shelter home. Establishes that approval of an emergency shelter is not a land use decision and is therefore only subject to review under ORS 34.010 to 34.100, which governs writs of review. Repeals emergency shelter provisions on July 1, 2021.

Transitional Housing Accommodations – Allows local governments to authorize transitional housing accommodations in parking lots or other facilities where persons may reside overnight in a motor vehicle, even if the motor vehicle was not designed for use as temporary living quarters. Allows local governments to create conditions on offering camping space, including establishing a maximum number of vehicles allowed.

Defines “low-barrier emergency shelter” as an emergency shelter that follows established best practices to deliver shelter services that minimize barriers and increase access to individuals and families experiencing homelessness. Outlines operations. Directs Oregon Housing and Community Services (OHCS) to award grants and provide technical assistance to fund

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construction, purchase or lease of facilities, and for operations of low-barrier emergency shelters, ensuring that funds are distributed among different regions of the state.

Defines “navigation center” as a low-barrier emergency shelter, that is open seven days per week and connects individuals and families with health services, permanent housing and public benefits, and outlines operations. Directs the Department of Administrative Services (DAS) to award grants to local governments to plan, develop or operate, construct or lease, or contract for a navigation center. Requires moneys unused by November 30, 2020, to be returned.

Funding and Technical Assistance – Appropriates to DAS from General Fund, for navigation centers, \$1.5 million to Yamhill County for the City of McMinnville; \$2.5 million to the City of Bend; \$2.5 million to the City of Medford; \$5 million to the City of Salem; and \$5 million to the City of Eugene. Appropriates to Oregon Housing and Community Services \$26.5 million from the General Fund to award grants and \$2 million to develop and provide technical assistance.

How could schools (or other facilities) be used as emergency shelters, while ensuring social distancing?

K-12 – Currently, schools are only closed until April 28, so unless the Governor provides additional guidance, schools are still scheduled to reopen next month, and any space would become unavailable.

Dates aside, there could be use of non-residence-like facilities (maybe gyms) as only a limited number of schools have dorm-like settings, but only if those spaces were available while the schools were performing their other COVID-19 directives (EO 20-08 directs public schools to provide for the provision of child care for first responders, emergency workers, health care professionals, and other individuals. It also directs schools to continue to provide school meals). These require the current use of some facilities and resources and will continue until schools reopen (or the Governor takes further action).

Unless ordered by the Governor or statute, this would be a district-by-district discussion, as local school districts control their own properties.

University – Every university is working directly with local health authorities to develop comprehensive coronavirus response plans. Many already have existing Memorandums of Understanding in place with local governments to allow use of university space under certain circumstances. Examples include:

- Oregon Institute of Technology is working with a local hospital, Sky Lakes Medical Center, to identify spaces to set up expanded medical/triage capacity for the region.
- Portland State University recently deployed a hotel that they own as a quarantine space for local health care and emergency services workers.
- Southern Oregon University’s (SOU) health center director is part of the Jackson County Health & Human Services emergency management team that supplies the medical side of the county’s COVID response management. Within that context, SOU supplied information and responded to requests from local health care providers, covering everything from supplies to services to available spaces for either COVID or non-COVID patients.
- The City of Ashland also asked SOU about partnering on providing parking lots for homeless in cars to be based for a period of time, allowing services to be delivered to them in a fixed location. After analysis, the city determined they had enough space elsewhere and did not need to use campus lots.

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Executive Order 20-09 ensured that university housing can continue to serve students for whom it is their primary housing option or critical to their individual health and safety. The universities are committed to providing that service and space for students who need it.

Although there are no statutory impediments to using university facilities as emergency shelters, part of the reason for moving to remote instruction was to minimize use of campus spaces that are frequently ill-suited to the social distancing necessary to prevent the spread of the disease.

Are statutory changes needed to repurpose schools, university dorms, county fairgrounds, churches, etc. for shelter?

County Fairgrounds – There are no statutory prohibitions or obstacles to using county fairground properties as emergency shelters as the committee proposes. Each county fairground is governed by a fair board – in working partnership with the County Commission or County Court – so each county’s fairground will have different operating agreements and rules. The Oregon Fairs Association is not aware of any local prohibitions on use of fairgrounds for emergency housing to help support COVID-19 response.

Some county fairgrounds are already on the frontlines of helping with the pandemic. For instance, the Douglas County Fairgrounds is being used as a COVID-19 testing site and thus may no longer be suitable for emergency housing. The Oregon Fairs Association, and its members, has expressed that it would gladly answer the call if they are needed to assist with emergency housing needs.

Request that the legislature work with OFA Chair Bart Noll, OFA Executive Director Patrick Sieng, and OFA government affairs representative JL Wilson if information needs to be disseminated to all 36 county fairgrounds. They stated they will be glad to help organize the members for emergency response.

Churches – It is likely that churches can utilize their indoor facilities as shelters, although churches may have to contend with county guidelines or local zoning laws, varying from city to city. Some cities require conditional use permits (CUPs), which may be a barrier. A church would also have to ensure that the space meets basic life safety requirements (such as adequate ingress, egress) and the ability to staff and supply the site. Portland, for example, is currently using a church, community center, convention center and other locations with only a basic fire life safety permit required. Bend, for example, would likely require a CUP.

Using outdoor space also has some statutory restrictions (see ORS 203.082 below). HB 4002 (2020) would expand the limits on parking lot camping, allowing more than three vehicles at a time as determined by the local government. Directing churches (as opposed to asking) to open their properties to temporarily house the homeless may be an eminent domain issue, but there may be special exceptions if we are in a state of emergency. Please defer to Legislative Counsel for more information.

ORS 203.082 Camping by homeless on property of religious institutions; required elements of policies of local governments and religious institutions. (1) Any political subdivision in this state may allow churches, synagogues and similar religious institutions to offer overnight camping space on institution property to homeless persons living in vehicles.

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(2) In addition to any conditions or limitations imposed by a political subdivision, a religious institution located within the political subdivision and offering camping space described under subsection (1) of this section must:

(a) Limit camping space at the institution site to three or fewer vehicles at the same time; and

(b) Provide campers with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities.

Transitional housing laws are located at ORS 446.265.

A note regarding staffing for shelters: Volunteers for shelters are hard to find because of COVID-19. Many of the volunteer population are age 60 plus and not available as they are staying home to protect themselves. In addition, there are the difficulties in obtaining personal protective equipment (PPE) and cleaning supplies.

Policy 33 – Foreclosures: prohibit commercial and residential foreclosures for duration of the declaration.

Provide updates related to foreclosure prohibition, including actions taken by Freddie Mac/Fannie Mae

Local banks and credit unions report a variety of steps being taken proactively, consistent with their national counterparts and with guidance issued by the Department of Consumer and Business Services (DCBS DFR 2020-07).

Credit Unions – Two weeks of real estate loan modification data (first mortgages, commercial and HELOC loans) from an individual credit union in Portland showed the following COVID-19 activity: 29 loans re-amortized (typically, a "restart" for a new 30-year term); 14 made interest-only for six months; seven new HELOCs set up as safety nets (home equity lines of credit); three loans in forbearance (skipping a payment, up to three months); and eight loans on hold if needed.

Another individual credit union reported modifying 51 loans and making 194 payment extensions in just one week.

A variety of other specific actions were also reported by individual institutions – these vary from institution to institution – and most actions were taken before DCBS guidance issued:

- refunding "foreign" ATM fees up to \$10 per month through the end of April
- waiving fees for online and phone payments
- eliminating fees for loan modifications until further notice
- waiving fees for skipping a payment
- allowing members to skip a loan payment regardless of whether they already skipped a payment in the preceding 12 months, with no processing fee
- offering an emergency loan with simple terms and no payment until 60 days after funding
- offering credit card limit increases and easy cash loans up to \$1,100
- allowing members to skip two payments on some loans without penalties for early withdrawals from certificates of deposit
- proactively engaging in outreach to membership to discuss options and having financial counselors and advisors available to consult

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One credit union is working in its community to provide funds for its local food bank. Another, the largest credit union in Oregon, contributed \$100,000 to Meals on Wheels People, which provides fresh food delivery to seniors, and is ordering lunch for its employees daily to support local businesses.

Banks – Each institution is working with its borrowers to tailor solutions on an individualized basis, consistent with guidance issued by the Department of Consumer and Business Services. They are "deploying tested pandemic plans, engaging in programs that have proven effective in disaster relief efforts, and using every tool in their toolboxes to help their customers and communities." Actions include everything: special emergency loan programs, payment forbearance, loan modifications, reduced loan rates, fee waivers, and other forms of debt restructuring. Key examples include local banks that have instituted their own temporary moratoriums on residential mortgage foreclosures organization-wide, consistent with their national counterparts; and local banks offering all of their borrowers 90-day payment reprieves. Additional examples are available.

Check in with Division of Finance and what they are seeing related to this (LPRO compilation of agency directives).

The Department of Consumer and Business Services, Division of Financial Regulation confirms banks and credit unions are both actively working with borrowers adversely affected by the pandemic in a variety of ways. Specific examples involving individuals and small businesses include:

- a variety of emergency loan products structured in different ways;
- deferring loan payments for a variety of time frames;
- delaying due date of first payments on a variety of types of loans anywhere from 60 to 120 days;
- waiving and suspending a variety of fees – ATM fees, fees on skipped payments, etc.
- allowing early CD withdrawal, waiving penalty;
- other alternatives on a case-by-case basis depending on circumstances of individual borrower; and
- other products and programs unique to each originating institution.

Credit unions and banks are demonstrating their commitment; they further commit to work closely with state and federal agencies to ensure that new programs and resources are made available to those in need quickly and efficiently.

CHILDCARE & EDUCATION

Policy 36 – High school diplomas: If the public health pandemic extends into May or June, the Oregon Department of Education (ODE) should consider permitting seniors to graduate with current credits if they are under the credit minimum.

Staff was asked to research what alternatives to classroom learning are occurring in Oregon and elsewhere.

To date, [46 states](#) have closed their public school systems, in addition to Puerto Rico and the District of Columbia. In Oregon, the school year is defined by the State Board of Education in [OAR 581-022-2320](#). Any action to grant waivers to instructional time requirements or to allow for

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distance learning to meet those requirements would need to be taken by the State Board of Education (State Board).

Currently, several districts in Oregon are offering distance learning as a supplemental service to students and families, including [Salem-Keizer Public Schools](#), [Beaverton School District](#), and [Portland Public Schools](#). However, the work will not be graded and will not necessarily count for credit. ODE [announced](#) that this was its preferred policy, primarily due to the equity issues involved in moving from in-person classes to distance learning. They also submitted testimony to this committee on March 23, 2020 and addressed the equity issues with distance learning, including 12 key considerations:

1. All students in the school or district have full access to the learning, the educators, and required materials (including technology).
2. The online learning system effectively supports the district's different learning and teaching needs, including the ability to provide differentiated instruction as well as one-on-one support for students who need it.
3. Online instructional materials are aligned to Oregon State Standards.
4. Specially Designed Instruction (SDI) identified on a student's Individualized Education Plan (IEP) or required supports for a 504 plan must be provided and adjusted to meet the unique needs of online instruction.
5. Support and instruction for emergent bilingual/English Learners must be provided if the district is operating an online school and adjusted to meet the unique needs of online instruction.
6. Supports for talented and gifted students must be provided if the district is operating an online school.
7. Ensuring equal student access to the instruction and assessments associated with dual credit courses.
8. Providing professional learning to staff, students, and parents and guardians on how the online system works and the expectations of the district.
9. Attendance is tracked and reported for both students and staff.
10. Online systems are secure and will not allow for the release of protected student or staff information.
11. Students have access to school meals.
12. Students have access to school counseling and/or mental health services.

Schools must provide educational services under the Individuals with Disabilities Education Act, even if in-person classes are canceled and schools are providing distance learning only. The U.S. Department of Education has provided answers to [frequently asked questions](#) and a [webinar](#) about the provision of special education services during extended school closures due to COVID-19. Additionally, the U.S. Department of Education has issued a [fact sheet](#) about student civil rights.

At least three states are currently engaged in finding ways to provide distance learning. In [Washington](#), the Superintendent of Public Instruction issued guidance to school districts stating the expectation that educational services for students should resume by March 30, 2020 using a variety of delivery methods and outlining the equity considerations districts must make when designing distance learning. The Governor of [Kansas](#) directed the Department of Education to convene a group of experts to plan for the continuation of educational services during the cancelation of in-person classes. [Virginia's](#) Governor ordered the state's education department to issue guidance on the equitable implementation of distance learning, summer learning, or the incorporation of this spring's material into next fall's classrooms.

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Additionally, technology companies are seeking ways to assist states' efforts to provide education to students while limiting the spread of COVID-19. The CEO of [Zoom](#) has offered his company's distance learning platform to K-12 schools free of charge during the national emergency. Also, [Comcast and other companies](#) have announced free internet access for low-income individuals and families.

School districts in various states have approached these issues in different ways. Portland Public Schools is allowing students who do not have computers to [borrow one from the district](#). Some districts in various states have equipped school buses with Wi-Fi hotspots and parked them in low-income neighborhoods in order to provide broadband access to students, some have boosted the Wi-Fi signals at school buildings to extend to nearby neighborhoods, and some have provided paper-based distance learning to students who lack broadband access. News reports highlighting the use of distance education have included districts in [Connecticut](#), [Indiana](#), [South Carolina](#) ([also here](#), [and here](#)), [Missouri](#), [Florida](#), [North Carolina](#), [New York](#), and [California](#).

HEALTH & HEALTH CARE

Policy 11 - Establish any-willing-provider provision. Ensure balance billing protections.

What are commercial insurers doing with respect to pay parity for telehealth?

Federal Medicare and Medicaid have issued clear guidance on the use of telehealth during the COVID-19 epidemic. The Oregon Department of Consumer and Business Services (DCBS) continues to discuss telehealth with commercial carriers. Other states have addressed telehealth access, coverage, and reimbursement in the commercial market through Executive Order (Massachusetts) or through action by the responsible regulatory agency (New York). A question remains as to what can be accomplished by the Insurance Commissioner independently, what the Governor could accomplish by Executive Order, and what would require legislative action.

- [Medicare](#) – Will make payment for Medicare telehealth services furnished to patients in broader circumstances. Visits are considered the same as in-person visits and are paid at the same rate.
 - [Press Release](#)
 - [Fact Sheet](#)
- [Medicaid](#) (Oregon Health Plan)
 - Division of Medical Assistance Programs (DMAP) [Temporary Rule 7-2020](#). Amends Telemedicine Rule to Align with Updated Practice Guidelines and Respond to Infectious Disease Outbreaks
 - Division of Medical Assistance Programs (DMAP) [Temporary Rule 8-2020](#). Updates to the Prioritized List of Covered Health Services to Improve Access to Telehealth
- [DCBS COVID-19 website](#) – FAQs, includes telehealth coverage (“The division expects health insurance companies to cover all appropriate in-network services for members by phone, video, and Internet during the duration of the COVID-19 outbreak.”)

Are there any supports available for providers who have voluntarily emptied their offices and who may want to provide telehealth?

Washington state's Health Care Authority (HCA) has [purchased](#) a limited number of licenses for Zoom, a video conferencing technology that helps health care providers continue seeing
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patients without a physical encounter. HCA is distributing a limited number of licenses free of charge to providers who have a meaningful need for this platform to support continuity of care, and do not already have access to telehealth technology. HCA will prioritize Zoom licenses for those providers who need them most.

Are hospitals asking the legislature to make up the difference between telehealth and in-person reimbursement rates?

Oregon rural hospitals who currently are not paid as the originating site, are requesting reimbursement for this service (especially now that the majority of their revenue has been put on hold with the suspension of elective procedures). A second issue is allowing providers who are already in a multi-state system but not physically located in Oregon and are not licensed in Oregon to provide telehealth services in Oregon facilities.

Telehealth: How can Oregon ensure payment/reimbursement equity throughout the healthcare system across payer types?

Massachusetts has [ordered](#) all commercial insurers, self-insured plans and state health plans to cover all clinically appropriate telehealth services at the same rate as in-person care. See response above on recent federal actions on telehealth for Medicare and Medicaid. Provider reimbursement and the ability to submit claims for reimbursement will vary by the insurer: Medicare, Medicaid, or commercial. On March 24, 2020 OHA and DCBS released [guidance](#) that for the duration of the COVID-19 outbreak, or until otherwise directed by the directors of the DCBS and OHA. The state expects health plans of all types to provide increased access to health care services through telehealth delivery platforms and to encourage patients to use telehealth delivery options to limit the amount of in-person health care services they seek. Ostensibly, this guidance should assist commercial health plans regulated by DCBS and Medicaid health plans regulated by OHA to reimburse for COVID-19 related services provided by a provider in another state.

The Centers for Medicare and Medicaid Services (CMS) is also waiving requirements that out-of-state providers be licensed in the state where they are providing services when they are licensed in another state. The waiver will apply to both Medicare and Medicaid. CMS is implementing actions to streamline the provider enrollment process by expediting any pending or new applications from providers and postponing all revalidation actions. Furthermore, as a result of the national emergency declaration, CMS is granting states additional flexibilities under an 1135 Waiver, including the ability to permit an out-of-state provider to deliver care. On March 20, 2020 Oregon submitted an 1135 Waiver to CMS seeking to ease program participation for providers, including allowing providers in good standing in another state to practice in Oregon, among other things.

The [Oregon Medical Board](#), the [Oregon State Board of Nursing](#), and the Health Licensing Office (for [respiratory therapists](#)) have all issued rules/guidance that allows for expedited Oregon licensure of practitioners who hold active out-of-state licenses. These provisions apply to physicians, physician assistants, nurses, nursing assistants, and respiratory therapists. The Governor's Joint Task Force for Health Care Systems Response to COVID-19 is reviewing similar rule changes to authorize practice of out-of-state licensed emergency medical services (EMS) providers.

What policies can be put in place for hospitals to ensure debt burden relief?

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When committee members raised the question on March 20, 2020 House Bill 3076 (2019) was referenced, which suggests the focus on debt burden relief is for individuals and families. HB 3076 regulates the charity care policies of nonprofit hospitals and health systems, requiring nonprofit hospitals to maintain financial assistance policies that include specified reductions based on a patient's household income and protect individuals from medical debt based on insurance status and ability to pay. These specific provisions have not yet taken effect.

The legislature could consider new policies or modifying policies outlined in HB 3076 regarding charity care by specifying certain COVID-19 related services that should be free or discounted as medically necessary care for low-income uninsured or underinsured patients. For hospitals and health systems, Congress is considering legislation to provide emergency relief from COVID-19 for hospitals and community health centers (* current as of March 24, 2020).

According to CMS ([FAQs](#) March 18, 2020) states can expand the eligibility groups for which hospitals can make presumptive eligibility (PE) determinations for Medicaid for a number of population groups. Under Hospital Presumptive Eligibility (HPE), states must permit hospitals to make PE determinations for parents and caretaker relatives, children, pregnant women, and former foster care children, adults (in states that have adopted the adult group), individuals eligible for family planning services (if covered by the state), and individuals needing treatment for breast or cervical cancer (if covered by the state). Under hospital PE, states may allow hospitals to enroll all eligible people regardless of their "eligibility category," and enrollment can be done off-site and by third parties as long as it is done under the supervision of the hospital.

States also have the authority to add additional Medicaid eligibility groups or populations (if covered by the state) to their HPE program. This includes eligibility groups based on being age 65 or older, having blindness or a disability, or being medically needy (e.g., eligibility group for individuals in institutions eligible under a special income level). States may also permit hospitals to make PE determinations for demonstration populations covered under section 1115 authority. Participating hospitals must meet the state's qualification requirements and comply with the procedures and standards established by the state. CMS is available to provide technical assistance on the State Plan Amendment (SPA) changes needed to expand HPE to these and other eligibility groups. This could be an option in Oregon to help ensure hospitals are reimbursed for COVID-19 related and non-related services during the crisis for newly Medicaid-eligible people through HPE. Need to confirm with OHA which aspects of the state's [HPE](#) were submitted in the state's 1135 Waiver request submitted on March 20, 2020 to CMS.

Policy 14 – Establish workforce requirements to increase available (health care) staffing throughout the declaration. Ensure all practitioners who have a role in COVID-19 response are maximizing their licensure.

Does reciprocity exist in Oregon for providers licensed in another state during crisis? If not, how can this be achieved?

The [Governor's Executive Order No. 20-03](#) (Declaration of Emergency Due to Coronavirus (COVID-19) Outbreak in Oregon) directed state agencies to "develop and implement procedures, including waiving rules or adopting temporary rules within the agency's authority, consistent with recommendations from the state Public Health Director, designed to prevent or alleviate the public health threat" of COVID-19. Pursuant to this direction, several Oregon health care regulatory boards have adopted rules or policies designed to increase the health care workforce during the emergency. These actions include:

- [Oregon Medical Board \(OMB\)](#) – adopted a [temporary rule](#) that:

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- Lifts practice restrictions on Emeritus and Locum Tenens physicians and physician assistants (PAs)
- Implements a new expedited reactivation process for administrative medicine, inactive, lapsed, and retired physicians and PAs
- Institutes an Emergency Authorization Application for out-of-state physicians and PAs
- Oregon State Board of Nursing (OSBN) – offering an [emergency temporary licensing exception](#) for nurses and nursing assistants licensed in another state or US territory
 - NOTE: Retired nurses can currently apply for reactivation if they still have 960 hours of practice in the previous five years. Alternatively, a retired nurse who wishes to volunteer during the pandemic may apply for [a nurse emeritus license](#).
 - NOTE: [Senate Bill 66](#) (2019) authorized OSBN to recognize military education or training programs as sufficient to meet the licensure requirements for licensed practical nurses.
- Health Licensing Office (HLO) – [authorized](#) out-of-state-licensed respiratory therapists to obtain temporary licensure in Oregon during this state of emergency.

How can cultural competency requirements and equity efforts be expanded temporarily among healthcare workforce?

OHA's Cultural Competence Continuing Education Training Approval program identifies potential cultural competence training for health care providers and offers [resources](#), including online training and webinars. OHA maintains [FAQs](#) regarding providing interpreter services to individuals who are deaf, deaf-blind, hard of hearing, or limited English proficient. OHA also oversees traditional healthcare workers (THWs) and is responsible for certifying and qualifying health care interpreters (HCIs). Working to ensure THWs and certified or qualified HCIs are easily accessible for individuals and health care providers during the crisis can help to address the needs of Oregon's diverse communities.

Policy 29 – Permit Physician Assistants to practice within their scope without supervision requirements throughout duration of the declaration.

Identify the 2020 physician assistants bill Rep. Salinas references for draft language.

Rep. Salinas was referring to [HB 4081](#).

Identify emergency rule change Sen. Boquist references.

Sen. Boquist was referring to emergency rule [OMB 4-2020, Chapter 847](#), from the Oregon Medical Board.

STATE GOVERNMENT & MISCELLANEOUS

Policy 24 – Encourage the executive branch to pause all non-essential rulemaking and workgroups not related to the COVID-19 response.

Is the Employment Department suspending the paid family medical leave (PFML) rulemaking process?

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No rulemaking on PFML was currently scheduled, so there is no need to suspend rulemaking activities. The agency is performing work that will feed into the rulemaking process, but there is no formal rulemaking to suspend at this time.

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Attachment A: Oregon Department of Education (ODE) Waivers for Food Delivery
Specific information on purpose and impact of each federal waiver ODE has requested, and approval status.

1. Waiver request to operate the Summer Food Service Program (SFSP) or Seamless Summer Option (SSO) during unanticipated school closures at school sites.
 - a. Purpose: Allows school districts to operate the SFSP or SSO during an unanticipated school closure at a school site. Current regulations only allow SFSP or SSO to be operated at non-school sites during an unanticipated school closure.
 - b. Impact: Increase access to nutritious meals that can be reimbursed through school sites during unanticipated school closures.
 - c. Status: *Approved*
2. Waiver request to operate SFSP/SSO non-congregate feeding for sponsors operating during COVID-19 unanticipated school closures.
 - a. Purpose: Allows all SFSP or SSO sponsors to serve non-congregate meals during unanticipated school closures. This allows students to receive a meal and consume elsewhere. Current regulations only allow meals to be served in a congregate setting.
 - b. Impact: Improve access to nutritious meals that can be reimbursed and prevent the exposure/spread of COVID-19 by allowing children and students to consume meals in non-congregate settings.
 - c. Status: *Approved*
3. Waiver request to waive meal time restrictions in SFSP/SSO during unanticipated school closures.
 - a. Purpose: Removes the restriction of a minimum time to elapse between meal services in SFSP and SSO. Current regulations require that three hours must elapse between the beginning of one meal service and the beginning of another.
 - b. Impact: Allow two meals to be provided at the same meal service and be reimbursed.
 - c. Status: *Approved*
4. Waiver request to waive the first week site visit for returning SFSP sites that have operated successfully in the previous year.
 - a. Purpose: Removes the requirement that returning SFSP sites must conduct a first week visit. Current regulations require that returning SFSP sites must have a site visit completed in the first week.
 - b. Impact: Eliminate the burden of completing a first week site visit.
 - c. Status: *Approved*
5. Waiver request to waive the area-eligibility requirement for SFSP and SSO
 - a. Purpose: Eliminates the requirement that a site be area-eligible. Current regulations require that for a site to be eligible for SFSP or SSO, the site must be located in a school attendance area where at least 50 percent of the children are eligible for free or reduced-price school meals.
 - b. Impact: Increase the number of sites that can participate on SFSP and SSO and be reimbursed for meals offered.
 - c. Status: *Submitted to USDA on March 16. USDA still reviewing. Not yet approved.*
6. While not waivers, USDA has also approved the following:
 - a. School Food Authorities approved to operate SFSP or SSO sites can claim meals directly served to children's homes.

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- b. Meals can be offered and claimed through the SFSP, SSO, or the National School Lunch Program or School Breakfast Program if school facilities are closed but schools continue to operate.

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Attachment B: Helpful Information sent to School Districts

“The USDA is now allowing reimbursement during planned Spring Break dates and unanticipated school closure dates. What follows is more technical information that either a nutrition manager in your district or ODE can help you further digest if needed.”

The four important headlines are:

- a) Sponsors can claim meals offered during spring break,
- b) Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) sponsors can serve and claim breakfast and lunch if/when offered at the same time,
- c) School Food Authority sponsors of SSO and SFSP sites can claim meals directly served to children’s homes, and
- d) Meals can be offered and claimed through the SFSP/SSO or the National School Lunch Program (NSLP)/School Breakfast Program (SBP) if school facilities are closed but schools continue to operate.

Here are the details for each:

a) Sponsors can claim meals offered during spring break. Sponsors have options to qualify for reimbursement by offering meals during school closures. Sponsors may claim reimbursement for meals approved under SSO and SFSP during a scheduled spring break that was canceled or postponed due to an unanticipated school closure resulting from the coronavirus.

b) SSO and SFSP sponsors can serve and claim breakfast and lunch if/when offered at the same time. This was originally approved for SFSP sponsors only. The USDA provided approval for SSO sponsors as well.

c) School Food Authority (SFA) sponsors of SFSP and SSO sites can claim meals directly served to children’s homes:

- Schools that have been approved for non-congregate feeding through SFSP or SSO may be reimbursed for meals delivered directly to children’s homes.
- Schools electing to deliver meals may serve only children who are in area-eligible locations or who are eligible for free or reduced-price meals.
- Schools operating a closed-enrolled site may enroll children who are certified as eligible for free or reduced-price meals, and deliver meals only to the enrolled, eligible children.
- Delivery may include more than one meal, e.g., a breakfast and a lunch, per delivery location as ODE previously received USDA approval to waive mealtime restrictions in SFSP and SSO.
- Delivery may include meals for multiple days, up to one week at a time.
- When meals are delivered, children do NOT need to be present at the time of delivery as long as the school has obtained written consent from households that they want to receive delivered meals.

d) Meals can be offered and claimed through the SFSP/SSO or the National School Lunch Program (NSLP)/School Breakfast Program (SBP) if school facilities are closed but schools continue to operate.

- SFSP/SSO option - If school buildings are closed unexpectedly during the school year due to COVID-19, the USDA considers this an unanticipated school closure. Even if the district is operating or providing online school, if the building is closed and students cannot attend their physical school location for classes, SFAs and community organizations (COs) may operate SFSP and SSO programs as permitted under program requirements.
- NSLP/SBP option - If an SFA considers a school to be operating and wishes to continue offering NSLP and SBP during such building closures, non-congregate meals can be offered. Schools would continue to claim and be reimbursed for meals based on the eligibility status of the individual student. All other NSLP and SBP requirements would apply

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Attachment C: Additional Impacts and Actions in Human Services

Refugee Program

To support Oregon's Refugee Communities, the Refugee Program is working closely with local Refugee Resettlement Agencies and partners to reduce barriers and increase understanding for individuals and families to access essential services.

- A process is currently being created for Refugee Resettlement Agencies (RRA) to assist refugees to complete the applications for DHS benefits via phone and online when needed in situations such as language barriers.
- Instructions have been given to RRAs and other contractors to reach out via phone/email to the refugee families and check in regularly. This includes Refugee Senior Services, Oregon Refugee Children Assistance Services, Refugee Employment Services, and Refugee Youth Mentoring Programs.
- All Refugee Program contractors will meet weekly, or more often via Skype, to collect updates. The information will then be shared directly with the families by partners to ensure that individuals and families understand updates.
- All gatherings for Refugee Program contracted services have been instructed to stop any in-person activities and provide services to the extent possible via phone and email.

Temporary Assistance for Needy Families (TANF)

The TANF program continues to review all options available to increase services and remove any possible barriers to assist Oregonians during the current state of emergency. The changes that have been implemented to date include:

- An online application in conjunction with a verbal signature now establishes a filing date. This allows people to apply without coming to a branch office or waiting while the department gathers a written signature.
- All federally required interviews will be done via phone and any additional information needed will be gathered via phone and electronically, when possible.
- During the state of emergency, individuals are excused from participation in any activities on their personal development plan that would put themselves or their family at risk due to COVID-19.
- The department will not be disqualifying any TANF families from the program due to nonparticipation of required activities.
- All current disqualifications are being removed during the state of emergency. Where applicable as related to disqualifications, grant supplements will be issued back to 3/8/2020; and
- Those families who had a case closed due to a disqualification since the state of emergency was implemented will be able to re-apply for benefits.