



## PERMANENT ADMINISTRATIVE ORDER

### CWP 4-2021

CHAPTER 413  
DEPARTMENT OF HUMAN SERVICES  
CHILD WELFARE PROGRAMS

**FILED**

01/28/2021 11:20 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Amendment Division 100 Related to Eligibility for Federal Funding of Foster Care (Correction).

EFFECTIVE DATE: 02/01/2021

AGENCY APPROVED DATE: 01/28/2021

CONTACT: Ryan Schott  
503-930-2932  
ryan.m.schott@dhsosha.state.or.us

500 Summer St NE E-67  
Salem, OR 97301

Filed By:  
Ryan Schott  
Rules Coordinator

AMEND: 413-100-0005

NOTICE FILED DATE: 11/30/2020

RULE SUMMARY: OAR 413-100-0005 sets forth the definitions for division 100 and are being amended to correct an error made in the last permanent rule filing that reverted definitions to old language.

CHANGES TO RULE:

413-100-0005

Definitions ¶¶

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

(1) "AFDC" means the Aid to Families with Dependent Children program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.¶¶

(2) "Candidate for foster care" means a child identified in a prevention plan as being at imminent risk of entering foster care, but who can remain safely in the child's home or with a kin caregiver as long as services or programs that are necessary to prevent foster care are provided.¶¶

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

(34) "Child care institution" means a private ~~or child care institution, or a~~ public child care institution that accommodates no more than 25 children, and is licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority responsible for licensing or approval of institutions of this type. This includes non-qualified residential treatment programs and qualified residential treatment programs as defined in OAR 413-095-0000.¶¶

(45) "Child support" means any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.¶¶

(56) "Countable income" means the amount of available income, including earned income and unearned income not specifically excluded by OAR 461-140-0040 (rules in effect July 16, 1996), used to determine eligibility for public assistance.¶¶

(67) "Date the child is considered to have entered foster care" is a federal term meaning the earlier of the

following:¶

(a) The date that the court makes a finding that the child was subjected to child abuse or neglect; or¶

(b) 60 days from the date the child was removed from the home.¶

(78) "Department" means the Oregon Department of Human Services.¶

(89) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.¶

(910) "Eligibility month" means:¶

(a) The month in which court action was initiated that resulted in the child's removal from the home of his or her specified relative.¶

(b) The month a voluntary placement or voluntary custody agreement was signed.¶

(101) "Eligibility status" means the status resulting from a Title IV-E eligibility determination, as described in OAR 413-100-0075.¶

(112) "Eligibility unit" means a group of individuals whose needs, income, and resources are considered together to determine their eligibility for public assistance and a child's eligibility for Title IV-E.¶

(123) "Foster care" means 24-hour substitute care for children placed away from their parents or guardians and for whom the Department, or another public agency, has placement and care responsibility. This includes but is not limited to placements in foster homes, foster homes of relatives, and pre-adoptive homes. A child or young adult is in foster care in accordance with this definition regardless of whether the foster care facility is licensed, and payments are made by the Department or local agency responsible for the care of the child, whether adoption subsidy payments are being made prior to the finalization of the adoption or whether there is federal matching of any payments that are made.¶

(134) "Kin caregiver" means a relative or fictive kin of a candidate for foster care, who is caring for the candidate for foster care pursuant to a prevention plan.¶

(15) "Need standard" means the income limit for an eligibility unit as set by the Department's AFDC standards in effect on July 16, 1996.¶

(146) "Parent" means, under the AFDC rules in effect on July 16, 1996:¶

(a) The biological mother or father of a person.¶

(b) The legal mother or father of a person.¶

(c) If the mother lives with a male, ~~who both she and~~ and either he or she claims he is the father of the child, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.¶

(d) A stepparent under one of the following circumstances:¶

(A) The person is legally married to the child's biological or adoptive parent; and¶

(B) The marriage has not been terminated by legal separation, divorce or death.¶

(e) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:¶

(A) The child lives with the biological parent; and¶

(B) The legal parent, who is the adoptive parent, has given up care, control, and supervision of the child.¶

(157) "Pregnant or parenting foster youth" means a child or young adult who is presently in foster care and is an expectant parent or parenting their own minor child.¶

(18) "Qualified Residential Treatment Program (Q RTP)" means a program as defined in OAR 413-095-0000.¶

(19) "Removal" or "Removed" means either the physical act of a child being taken from his or her normal place of residence by court order or a voluntary placement agreement and placed in a foster care setting, or the removal of custody from the parent or relative guardian pursuant to a court order or voluntary placement agreement which permits the child to remain in a foster care setting.¶

(1620) "Removal home" means the home from which the child was removed because of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).¶

(217) "Resource" means any personal or real property that is or can be made available to meet the need of the eligibility unit that the Department does not specifically exclude from consideration.¶

~~(1822)~~ "Reunified with parent" means that a child has been discharged from foster care through legal dismissal by the court, withdrawal of a voluntary placement agreement or after 6 months of trial reunification, unless trial reunification is extended for a specified period by court order.¶¶

~~(1923)~~ "Specified relative" means an individual from whom the child is removed who is related to the child in one of the ways listed below. For the purposes of Title IV-E eligibility, if any of the following relationships are established through marriage, the relationship remains the same even if the marriage is terminated by death or divorce:¶¶

(a) A parent as defined in this rule;¶¶

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives);¶¶

(c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;¶¶

(d) A person who legally adopts a child and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;¶¶

(e) A stepmother, stepfather, stepbrother, or stepsister; or¶¶

(f) A spouse of anyone listed in subsections (b) to (e) of this section.¶¶

~~(204)~~ "Substitute care episode" means the period between the date a child is removed from his or her home by either a judicial determination or a voluntary placement or custody agreement, and the date a child or young adult is discharged from foster care for one of the reasons described in OAR 413-100-0110.¶¶

~~(245)~~ "Supplemental Security Income" or "SSI" means the federal program that pays benefits to disabled adults and children who have limited income and resources.¶¶

~~(226)~~ "Title IV-E" means Title IV-E of the Social Security Act, which is titled "Federal Payments for Foster Care, Prevention, and Permanency," and which provides federal payments to states for foster care maintenance, adoption assistance, and guardianship assistance on behalf of certain eligible children and young adults.¶¶

~~(237)~~ "Trial reunification" means that a child has been in a foster care placement under continuing state agency supervision and is returned to the primary caregiver the child was removed from, for a limited and specified period. The child must be considered reunified with parent at the point at which the trial reunification reaches six months or no later than the last day of a court ordered extension.¶¶

~~(248)~~ "Unearned income" means all income that does not directly result from an individual's employment or self-employment.¶¶

~~(259)~~ "Young adult" means a person aged 18 years through 20 years.

Statutory/Other Authority: ORS 409.050, ORS 418.005, ORS 409.010, ORS 418.625

Statutes/Other Implemented: ORS 409.050, ORS 418.005, ORS 409.010, ORS 418.625