461-140-0296 Effective 10-01-24

Length of Disqualification Due to an Asset Transfer; Nursing Facility Services or Home and Community-Based Care

(1) This rule applies to individuals applying for or receiving Department-paid nursing facility services or *home and community-based care* (see OAR 461-001-0030).

(2) An individual who completes a disqualifying transfer of an asset in accordance with OARs 461-140-0210, 461-140-0220, 461-140-0242, and 461-140-0250 is disqualified from receiving Department-paid nursing facility services or *home and community-based care*. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0030) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) If the *initial month* is on or after October 1, 2022 and prior to October 1, 2024--- $10,342.

(m) If the *initial month* is on or after October 1, 2024--- $14,585.

(3) For transfers by an individual and the spouse of an individual:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) The date the disqualification begins is:

(A) For an individual who either transfers an asset while they are already receiving Department-paid nursing facility services or *home and community-based care*, or transfers an asset on or after the date that is 60 months prior to the *date of request* (see OAR 461-115-0030) but fails to report the transfer at initial application, the first of the month following the date the Department learns the asset was transferred and the *timely continuing benefit decision notice period* ends (see OAR 461-175-0050), except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an individual who transfers an asset prior to submitting an application for services and being determined eligible who reports the transfer at application, the *date of request* for nursing facility services or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are applying for or receiving Department-paid nursing facility services or *home and community-based care*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple applies for or starts receiving Department-paid nursing facility services or *home and community- based care*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or

eliminates the individual's control or ownership in the individual's share of the asset.

(5) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (6) of this rule.

(6) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005 or there is a potential disqualifying transfer under section (11) of OAR 461-145-0022, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(7) Effective January 1, 2023, the Department ends the disqualifications previously established under this rule based on an income cap trust.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 7-01-24

Length of Disqualification Due to an Asset Transfer; Nursing Facility Services or Home and Community-Based Care

(1) This rule applies to individuals applying for or receiving Department-paid nursing facility services or *home and community-based care* (see OAR 461-001-0030).

(2) An individual who completes a disqualifying transfer of an asset in accordance with OARs 461-140-0210, 461-140-0220, 461-140-0242, and 461-140-0250 is disqualified from receiving Department-paid nursing facility services or *home and community-based care*. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) If the *initial month* is on or after October 1, 2022--- $10,342.

(3) For transfers by an individual and the spouse of an individual:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) The date the disqualification begins is:

(A) For an individual who either transfers an asset while they are already receiving Department-paid nursing facility services or *home and community-based care*, or transfers an asset on or after the date that is 60 months prior to the *date of request* (see OAR 461-115-0030) but fails to report the transfer at initial application, the first of the month following the date the Department learns the asset was transferred and the *timely continuing benefit decision notice period* ends (see OAR 461-175-0050), except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an individual who transfers an asset prior to submitting an application for services and being determined eligible who reports the transfer at application, the *date of request* for nursing facility services or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are applying for or receiving Department-paid nursing facility services or *home and community-based care*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple applies for or starts receiving Department-paid nursing facility services or *home and community- based care*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(5) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (6) of this rule.

(6) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005 or there is a potential disqualifying transfer under section (11) of OAR 461-145-0022, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(7) Effective January 1, 2023, the Department ends the disqualifications previously established under this rule based on an income cap trust.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 4-01-24

Length of Disqualification Due to an Asset Transfer; Nursing Facility Services or Home and Community-Based Care

(1) This rule applies to individuals applying for or receiving Department-paid nursing facility services or *home and community-based care* (see OAR 461-001-0030).

(2) An individual who completes a disqualifying transfer of an asset in accordance with OARs 461-140-0210, 461-140-0220, 461-140-0242, and 461-140-0250 is disqualified from receiving Department-paid nursing facility services or *home and community-based care*. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) If the *initial month* is on or after October 1, 2022--- $10,342.

(3) For transfers by an individual and the spouse of an individual:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) The date the disqualification begins is:

(A) For an individual who transfers an asset while they are already receiving Department-paid nursing facility services or *home and community-based care*, the first of the month following the date the Department learns the asset was transferred and the *timely continuing benefit decision notice period* ends (see OAR 461-175-0050), except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while they are already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for nursing facility services or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are applying for or receiving Department-paid nursing facility services or *home and community-based care*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple applies for or starts receiving Department-paid nursing facility services or *home and community- based care*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(5) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on

the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (6) of this rule.

(6) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005 or there is a potential disqualifying transfer under section (11) of OAR 461-145-0022, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(7) Effective January 1, 2023, the Department ends the disqualifications previously established under this rule based on an income cap trust.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 12-11-23

Length of Disqualification Due to an Asset Transfer; Nursing Facility Services or Home and Community-Based Care

(1) This rule applies to individuals applying for or receiving Department-paid nursing facility services or *home and community-based care* (see OAR 461-001-0030).

(2) An individual who completes a disqualifying transfer of an asset in accordance with OARs 461-140-0210, 461-140-0220, 461-140-0242, and 461-140-0250 is disqualified from receiving Department-paid nursing facility services or *home and community-based care*. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) If the *initial month* is on or after October 1, 2022--- $10,342.

(3) For transfers by an individual and the spouse of an individual:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) The date the disqualification begins is:

(A) For an individual who transfers an asset while they are already receiving Department-paid nursing facility services or *home and community-based care*, the first of the month following the date the Department learns the asset was transferred in accordance with the *timely continuing benefit decision notice period* (see OAR 461-

175-0050), except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while they are already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for nursing facility services or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are applying for or receiving Department-paid nursing facility services or *home and community-based care*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple applies for or starts receiving Department-paid nursing facility services or *home and community- based care*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(5) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (6) of this rule.

(6) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005 or there is a potential disqualifying transfer under section (11) of OAR 461-145-0022, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(7) Effective January 1, 2023, the Department ends the disqualifications previously established under this rule based on an income cap trust.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 7-01-23

Length of Disqualification Due to an Asset Transfer; OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) If the *initial month* is on or after October 1, 2022--- $10,342.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the

couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while they are already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while they are already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) Effective January 1, 2023, the Department ends the disqualifications previously established under this rule based on an income cap trust.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Temporary Effective 4-01-23 through 6-30-23
Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) If the *initial month* is on or after October 1, 2022--- $10,342.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the

couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) Effective January 1, 2023, the Department ends the disqualifications previously established under this rule based on an income cap trust.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 4-01-23

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) If the *initial month* is on or after October 1, 2022--- $10,342.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the

couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Temporary Effective 11/01/2022 through 3-31-23
Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020 and prior to October 1, 2022---$9,551.

(l) Retroactively effective October 1, 2022, if the *initial month* is on or after October 1, 2022--- $10,342.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(l) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while he or she is already receiving Department-paid *long-term care* (see

OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 1-01-21

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020---$9,551.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250,

unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 10-01-20

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000) and is retroactively effective July 6, 2020.

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018 and prior to October 1, 2020---$8,784.

(k) If the *initial month* is on or after October 1, 2020---$9,551.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(k) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250,

unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Temporary Effective 8-07-20 through 9-31-20

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000) and is retroactively effective July 6, 2020.

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018---$8,784.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to zero or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity

pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 7-08-20

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to individuals in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000) and is retroactively effective July 6, 2020.

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018---$8,784.

(3) For transfers by an individual and the spouse of an individual that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by an individual and the spouse of an individual that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule:

(a) If there are multiple transfers by the individual and the spouse of the individual, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. This number might be zero full months. The remaining decimal or fraction of the quotient is used to calculate a partial month disqualification, which may be in addition to one or more full months. This remaining decimal or fraction is converted to a number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period, if any. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For an individual who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for an individual who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or individual would otherwise be eligible but for this disqualification period. If the applicant or individual is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or individual would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement*, part of the disqualification is apportioned to each of them. If one member of the couple is serving a disqualification when the other member of the couple begins living in a *nonstandard living arrangement*, any remaining disqualification is apportioned equally to each member of the couple. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the individual is considered transferred when any action is taken either by the individual or any other person that reduces or eliminates the individual's control or ownership in the individual's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity

pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If an individual or the spouse of an individual purchases an annuity on or before December 31, 2005, and the only requirement that is not met is that the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

Statutory/Other Authority: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Statutes/Other Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 1-01-19

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to clients in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018---$8,784.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of* *request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Temporary Effective 10-1-18 through 12-31-18
Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to clients in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the *initial month* is on or after October 1, 2016 and prior to October 1, 2018---$8,425.

(j) If the *initial month* is on or after October 1, 2018---$8,784.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(j) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of* *request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 409.050, 411.060, 411.704, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.704, 411.706, 42 USC 1396p

461-140-0296 Effective 1-01-17

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to clients in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the initial month is on or after October 1, 2016---$8,425.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060, 411.704, 411.706
Stats. Implemented: ORS 411.060, 411.704, 411.706

461-140-0296 Temporary Effective 10-01-16 through 12-31-16
Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to clients in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010 and prior to October 1, 2016---$7,663.

(i) If the initial month is on or after October 1, 2016---$8,425.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(i) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060, 411.704, 411.706
Stats. Implemented: ORS 411.060, 411.704, 411.706

461-140-0296 Effective 9-01-16

Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to clients in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010---$7,663.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, the value of all transfers are added together before dividing by the

applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the

disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from

receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060, 411.704, 411.706
Stats. Implemented: ORS 411.060, 411.704, 411.706

This website displays unofficial previous administrative rule versions with an effective date of January 1, 2014 and after. For earlier administrative rule versions, submit a public records request to the Secretary of State public records request website.

461-140-0296 Temporary Effective 7-01-16 through 8-31-16
Length of Disqualification Due to an Asset Transfer; OSIP and OSIPM

(1) This rule applies to clients in the OSIP and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A *financial group* (see OAR 461-110-0530) containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010---$7,663.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, the value of all transfers are added together before dividing by the

applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the

disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from

receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060, 411.704, 411.706
Stats. Implemented: ORS 411.060, 411.704, 411.706

461-140-0296 Effective 2-17-16

Length of Disqualification Due to An Asset Transfer; GA, GAM, OSIP, OSIPM

(1) This rule applies to clients in the GA, GAM, OSIP, and OSIPM programs who live in a *nonstandard living arrangement* (see OAR 461-001-0000).

(2) A financial group containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the *initial month* (see OAR 461-001-0000) is prior to October 1, 1998---$2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000---$3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002---$3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004---$4,300.

(e) If the *initial month* is on or after October 1, 2004 and prior to October 1, 2006---$4,700.

(f) If the *initial month* is on or after October 1, 2006 and prior to October 1, 2008---$5,360.

(g) If the *initial month* is on or after October 1, 2008 and prior to October 1, 2010---$6,494.

(h) If the *initial month* is on or after October 1, 2010---$7,663.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(10)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule, the value of all transfers are added together before dividing by the

applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(h) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) Notwithstanding when the Department learns of a disqualifying transfer, the first month of the disqualification is:

(A) For a client who transfers an asset while he or she is already receiving Department-paid *long-term care* (see OAR 461-001-0000) or *home and community-based care* (see OAR 461-001-0030) in a *nonstandard living arrangement*, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For an applicant who transfers an asset prior to submitting an application and being determined eligible and for a client who transfers an asset while he or she is already receiving benefits in a *standard living arrangement* (see OAR 461-001-0000), the *date of request* (see OAR 461-115-0030) for *long-term care* or *home and community-based care* as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the *date of request*, the

disqualification begins the first date following the *date of request* that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a *nonstandard living arrangement* and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the *uncompensated value* as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from

receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

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