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irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>

INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

May 30, 2000

Honorable Feather O. Houston
Secretary of Public Welfare
333 Health and Welfare Building
Harrisburg, PA 17105

Re: IRRC Regulation #14-467 (#2118)
Welfare Reform Omnibus Amendments

Dear Secretary Houston:

In our review of this regulation, we noted a drafting error that we discussed with your staff on May 30, 2000. We recommend that you toll the review period in order to make the following revisions.

Delete the phrase "for GA" after the word "eligibility" in Section 177.21(a)(11)(ii). Chapter 177 applies to both GA and TANF recipients. Therefore, the phrase "for GA" erroneously limits the scope of this section.

If the Department chooses to toll the review period, it must deliver written notice to both the Standing Committees and the Commission on the same day. The written notice must be delivered prior to any Standing Committee action on the regulation, or before the end of the Standing Committee's review period on June 6, 2000, whichever occurs first.

As required by Section 307.5 of our regulations, written notice must include:

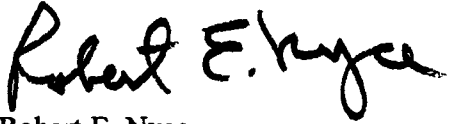
1. A citation to the section(s) the Department is considering revising;
2. A description of the revisions being contemplated; and
3. An explanation of how the revisions will satisfy our concerns.

If you make additional changes, the Commission may object to tolling the review period. In that event, we will notify you and the Standing Committees within two business days after receipt of your tolling notice that the review period will not be tolled and your regulation will be considered by the Commission at our public meeting on June 8, 2000. If the Commission does not object, the review period will be tolled for up to 30 days beginning with receipt of your letter and ending on the day you resubmit the regulation.

Honorable Feather O. Houstoun
May 30, 2000
Page 2

If you have any questions, please call me at 783-5506.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce". The signature is written in a cursive, slightly slanted style.

Robert E. Nyce
Executive Director

wbg

cc: Honorable Dennis M. O'Brien
Honorable Frank L. Oliver
Honorable Harold F. Mowery
Honorable Vincent J. Hughes
Thomas A. Hutton, Esq.
David J. DeVries, Esq.
Sherri Z. Heller
Edward J. Zogby

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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

June 5, 2000

Honorable Feather O. Houstoun, Secretary
Department of Public Welfare
333 Health and Welfare Building
Harrisburg, PA 17105

Re: Regulation #14-467 (#2118)
Welfare Reform Omnibus Amendments

Dear Secretary Houstoun:

The Commission does not object to tolling the review of the subject regulation.

Therefore, the tolling period began on June 2, 2000, when we received the request to toll. By July 3, 2000, the Department must deliver to the Commission and the Committees either the revised regulation or written notification that the regulation will not be revised. The revised regulation or notification must be accompanied by a transmittal sheet (copy enclosed) confirming delivery to the Committees and the Commission on the same date. The regulation will be deemed withdrawn, if the Department does not return the regulation or provide the required notification by July 3, 2000.

If you have any questions, please call me at 783-5506.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce
Executive Director

wbg

Enclosure

cc: Honorable Dennis M. O'Brien
Honorable Frank L. Oliver
Honorable Harold F. Mowery
Honorable Vincent J. Hughes
Thomas A. Hutton, Esq.
David J. DeVries, Esq.
Sherri Z. Heller
Edward J. Zogby

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER:

SUBJECT:

AGENCY:

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<hr/>	<hr/>	HOUSE COMMITTEE ON
<hr/>	<hr/>	
<hr/>	<hr/>	SENATE COMMITTEE ON
<hr/>	<hr/>	
<hr/>	<hr/>	INDEPENDENT REGULATORY REVIEW COMMISSION
<hr/>	<hr/>	ATTORNEY GENERAL
<hr/>	<hr/>	LEGISLATIVE REFERENCE BUREAU

Original: 2118



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE**
P.O. Box 2675, Harrisburg, PA 17105-2675

*Jean E. Graybill
Senior Assistant Counsel
Office of Legal Counsel*

Telephone: 717-783-0881
Fax: 717-772-0717
E-mail: jgraybill@dpw.state.pa.us

May 11, 2000

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, Pennsylvania 17101

RE: Regulation #14-467

Dear Mr. Nyce:

The Department of Public Welfare is submitting regulation #14-467, the pre-TANF Welfare Reform Omnibus Amendments, formerly submitted as #14-446 and #14-439. Although these regulations are being submitted for publication as final rulemaking, omitting proposed rulemaking, they have in fact been reviewed and commented on several times by advocates and the legislative committees.

This regulation promulgates provisions which were implemented by Notices of Rule Change following each of three welfare reform enactments of the Pennsylvania General Assembly. Those Acts were No. 1994-49, No.1995-20, and No.1996-35. Following each legislative enactment, the Department prepared documents for implementation of the mandatory changes, including the Notices of Rule Change and new pages for the eligibility handbooks used by county assistance offices. As part of standard procedures, the Department submitted advance copies of those documents to a designated group of individuals for review. This group, known as the Executive Policy Committee (EPC), includes individuals who are members of the Income Maintenance Advisory Committee (IMAC), a standing committee comprised of advocates, recipients and former recipients, and their legal counsel, who meet with the Department bi-monthly. Some of the non-lawyers on the IMAC represent welfare rights organizations, and the legal services attorneys provide comments on Department policies and draft documents on behalf of those organizations as well as the individual members of IMAC.

The Department sent advance copies of documents, for comments, to these advocates and citizen representatives, for each of the three legislative enactments. The Department received comments from Legal Services advocates on the drafts implementing Act 1994-49 and Act 1996-35. A copy of the changes to implement Act 1995-20 was sent, at the time of development, to

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Mr. Robert E. Nyce
RE: Regulation #14-467

-2-

the Legal Services representatives (as well as the citizen representatives) on the EPC, but they provided no comments to the Department.

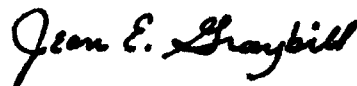
In 1998, regulation #14-439 was submitted to the IRRC and to the legislative health and welfare committees. The Department received comments in response to those regulations, including comments from advocates, withdrew #14-439 to make revisions in accordance with those comments, and resubmitted the document as regulation #14-446.

Regulation #14-446 was submitted in 1999, and again reviewed by the same legislative committees and numerous legal services advocates, who had additional comments on these regulations. After meeting and discussion with the staff of IRRC, the Department once again withdrew these regulations to address the additional comments, several of which were unrelated to state welfare reform or the Notices of Rule Change.

Regulation #14-467 reflects revision after two rounds of formal review and comment on regulations, and three rounds of comments on draft documents pursuant to the Department's process for soliciting comments from advocates, prior to the first submission to the IRRC. Given the extensive, multiple comment periods, it is our view that submission as final rulemaking is not only permitted, but is appropriate.

As always, we appreciate your thoughtful attention to these regulations. Let me also take this opportunity to thank you for the guidance and insight you have provided to the Department in the past on a number of regulations. We look forward to continuing our efforts to improve the regulatory process.

Yours truly,



Jean E. Graybill

MAY 17 2000

Original: 2118



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 2675
HARRISBURG, PENNSYLVANIA 17105-2675

Feather O. Houston
Secretary

Telephone 717-787-2600/3600
FAX 717-772-2062

MAY 17 2000

The Honorable Vincent J. Hughes
Senate of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear Senator Hughes:

Enclosed is a copy of a final regulation, proposed rulemaking omitted, that amends certain criteria used to determine eligibility for the Temporary Assistance for Needy Families (TANF – which replaced the Aid to Families with Dependent Children (AFDC) program), General Assistance (GA) and GA-related Medical Assistance (MA) programs. These amendments are based on the following:

- Act 1994-49 (P.L. 319, No. 49) enacted on June 16, 1994 and implemented under a Notice of Rule Change published at 24 Pa.B. 4425 (August 27, 1994).
- Act 1995-20 (P.L. 129, No. 20) enacted on June 30, 1995 and implemented under a Notice of Rule Change published at 25 Pa.B. 2762 (July 8, 1995).
- Act 1996-35 (P.L. 175, No. 35) enacted on May 16, 1996 and implemented under a Notice of Rule Change published at 26 Pa.B. 2865 (June 15, 1996).
- Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104-193) enacted on August 22, 1996 and implemented under a Notice of Rule Change published at 27 Pa.B. 1092 (March 1, 1997).
- 42 U.S.C. §1396a(a)(17)(D), as clarified by the Health Care Financing Administration, defines what states may use as allowable medical expense income deductions. Instructions were provided to county assistance office staff to implement this change effective February 1, 1999.

The Honorable Vincent J. Hughes -2-

MAY 17 2000

These regulations were previously submitted in September 1999. Pursuant to concerns raised by the Independent Regulatory Review Commission, changes were made, resulting in this resubmission.

This regulation is being submitted as final rulemaking omitting proposed. Substantive changes in the GA and MA program criteria include:

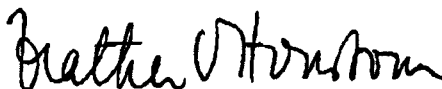
- The elimination of the transitionally needy component of the GA program.
- The elimination of eligibility under the Medically Needy Only (MNO) MA program for persons age 21 through 58 unless they are pregnant, disabled, employed 100 hours per month, custodial parent of a child under age 21 or refugees eligible for Federal assistance.
- An exemption for savings used for educational purposes. This exemption also applies to applicants and recipients of TANF.
- The development of health-care-benefit packages under which compensable medical services are determined according to category.
- The expansion of allowable medical expense income deductions when determining eligibility for MNO-MA spend-down.

This regulation represents an effort to reform the welfare system so that the most basic needs of public assistance recipients can continue to be met in a manner that promotes personal responsibility and self-sufficiency.

This regulation, which amends Pennsylvania Code, Title 55, Chapters 101, General Provisions; 125, Application Process; 133, Redetermining Eligibility; 141, General Eligibility Provisions; 145, Age; 166, Employment and Community Work Experience Program; 175, Allowances and Benefits; 177, Resources; 178, Resource Provisions for Categorically Needy NMP-MA and MNO-MA; 181, Income Provisions for Categorically Needy NMP-MA and MNO-MA; and 183, Income, is submitted for review by your Committee pursuant to the Regulatory Review Act.

The Department of Public Welfare will provide your Committee with any assistance required to facilitate a thorough review of this regulation.

Sincerely,



Feather O. Houston

Enclosure



SENATE OF PENNSYLVANIA
PUBLIC HEALTH & WELFARE
COMMITTEE

SENATOR VINCENT HUGHES,
MINORITY CHAIR

NILES SCHORE, CHIEF COUNSEL/EXECUTIVE
DIRECTOR
ROOM 543 MAIN CAPITOL
HARRISBURG, PA 17120-3007
PHONE: 717-787-7112 • FAX: 717-772-0579

FACSIMILE TRANSMITTAL SHEET

TO: JOHN NANORTA

FROM: NILES SCHORE

FAX NUMBER: 3-2664

DATE: MAY 26, 2000

COMPANY: IRRIC

TOTAL NO. OF PAGES INCLUDING
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PHONE NUMBER:

REFERENCE NUMBER:

RE:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS: AS YOU REQUESTED.

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Original: 2118



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 2675
HARRISBURG, PENNSYLVANIA 17105-2675

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2000 JUN 1 - 2 PM 2: 52

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REVIEW COMMISSION

SHERRI Z. HELLER, Ed.D.
DEPUTY SECRETARY FOR INCOME MAINTENANCE

TELEPHONE
(717) 783-3063

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

Dear Mr. Nyce:

The Independent Regulatory Review Commission has suggested a revision to a section of the final form regulation #14-467 (relating to Welfare Reform Omnibus Amendments) that was submitted for your review on May 17, 2000. At the Commission's recommendation, we are requesting that the review period for the regulation be tolled to revise subparagraph 177.21(a)(11)(ii) (relating to personal property).

This revision reflects the deletion of the phrase "for GA" after the word "eligibility" in subparagraph 177.21(a)(11)(ii), as requested by the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Sherri Z. Heller".

Sherri Z. Heller

cc: The Honorable Harold F. Mowery
The Honorable Vincent J. Hughes
The Honorable Dennis M. O'Brien
The Honorable Frank L. Oliver
Howard Burde, Deputy General Counsel
David DeVries, Office of Attorney General

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
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JOHN F. MIZNER, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



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<http://www.irrc.state.pa.us>

INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

May 30, 2000

Honorable Feather O. Houstoun
Secretary of Public Welfare
333 Health and Welfare Building
Harrisburg, PA 17105

Re: IRRC Regulation #14-467 (#2118)
Welfare Reform Omnibus Amendments

Dear Secretary Houstoun:

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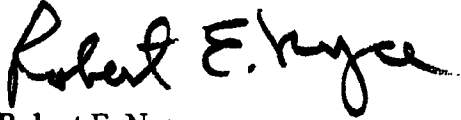
Honorable Feather O. Houstoun

May 30, 2000

Page 2

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Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce". The signature is written in a cursive, slightly slanted style.

Robert E. Nyce
Executive Director

wbg:

cc: Honorable Dennis M. O'Brien
Honorable Frank L. Oliver
Honorable Harold F. Mowery
Honorable Vincent J. Hughes
Thomas A. Hutton, Esq.
David J. DeVries, Esq.
Sherri Z. Heller
Edward J. Zogby

Original: 2118

WOMEN AGAINST ABUSE

June 19, 2000

Independent Regulatory Review Commission
 Fourteenth Floor, Harristown 2
 333 Market Street
 Harrisburg, PA 17101

Re: #14-467, formerly #14-446,
 "The Combo Package"

Dear Commissioners,

We are writing to comment on and oppose the adoption of DPW's latest regulations, the so-called "Combo Package," #14-467. In particular we are concerned about the impact of these regulations on extremely low-income battered women who are attempting to escape abuse, and who desperately need General Assistance (GA) benefits.

Women Against Abuse provides emergency shelter, telephone hotline counseling, transitional housing and legal services to battered women. The women we serve have experienced terrible violence and trauma. They are fleeing abuse and quite literally have nowhere else to go. Domestic violence makes it very difficult for women to get and keep jobs. As a number of studies have shown, abusive men often use violence to prevent women from completing an educational or training program, or from going to a job interview. Women who have jobs often have to leave them when trying to leave an abusive relationship, because the abuser can locate them at the workplace. Some women lose their jobs when the abuser makes trouble at the workplace. We can only provide very short term (often only 30 days) housing for women in our emergency shelter. During that time the women need to deal with the upheaval of leaving an abusive situation, adjust to the drastic changes in their situation, look for longer-term housing, look for work, deal with the welfare department, family court, and other agencies, and seek medical care. The women we serve in each of our programs are very poor, and they often have multiple problems they are struggling with in addition to escaping violence. They desperately need Cash Assistance to care for themselves.

We know that we are able to serve only a small fraction of the women in our community who are suffering from abuse. We are concerned not only about the women who are able to get services from us, but also about the women who do not know we exist, who are too frightened to seek help from us, or who do not have the resources to even make contact with us. We are therefore very disturbed by DPW's proposed regulation.

Administrative Office

P.O. Box 13758
 Philadelphia, PA 19101-3758
 (215) 896-1280
 (215) 386-2476 (FAX)

Legal Center

Land Title Building, 5th Floor
 100 South Broad Street
 Philadelphia, PA 19110
 (215) 686-7082
 (215) 686-7041 (FAX)

Sojourner House

(215) 438-5720
 (215) 438-3211 (FAX)


Hotline

(215) 386-7777

E-mail

waasa@libertynet.org

The official registration and financial information of Women Against Abuse may be obtained from the PA Department of State by calling toll-free within Pennsylvania 1-800-732-0999. Registration does not imply endorsement.

 A United Way Agency
 Donor Choice #00195

The problem with DPW's proposed regulation concerning GA benefits for survivors of domestic violence lies in the Department's refusal to provide for a reasonable standard of proof for women to establish that they have been abused, and are therefore eligible for assistance.

The Public Welfare Code clearly defines those who are eligible for General Assistance to include:

A person who is a victim of domestic violence and who is receiving *protective services* as defined by the department. No individual shall qualify for general assistance under this provision for more than nine month's in that person's lifetime.

62 Purdon's Stat. 432 (3)(i)(G)(emphasis added).

Our dispute with DPW in promulgating these regulations has been the agency's failure to incorporate a reasonable standard of proof in establishing the receipt of "protective services." All too often, we have seen victims of domestic violence who have fled from abusive situations with little documentation. Of course, those fortunate enough to live in a shelter for abused women or find or maintain a relationship with an established service provider, will have no problem documenting that they are receiving protective services. However, there are many other women who have or will receive protective services but cannot document them -- they can not obtain police reports or emergency protection orders. Many are in desperate need of cash assistance. To insist that they document their receipt of protective services in particular, restrictive ways before they can get any help will cause needless delay and suffering.

DPW's Notice of Rule Change, that permits the satisfaction of the child support cooperation requirement by self-declaration, rather than the more formal route of providing formal documentation, is much more sensible. See, 30 Pa. Bull. 2957 (June 10, 2000). Thus, just last week DPW announced its intent to waive the documentation requirement for establishing a good cause exemption from the usual requirement of cooperating in the establishment of paternity and child support where there was an allegation of domestic violence. In such cases, the caseworker may waive all documentation requirements for the first six months and make an informed judgment after six months based on an assessment of the situation. NORC, 30 Pa. Bull. 2957, Item 3, Evidence to Corroborate Good Cause/Verification of Good Cause Based on Domestic Violence Form (see attached).

Especially since DPW has evinced a heightened awareness and sensitivity to this area, it is inexplicable that the GA regulations remain unchanged, requiring documentation of domestic violence protective services prior to the granting of subsistence level GA benefits.

Even before the publication of the NORC, advocates had urged DPW to amend these regulations to allow for a more flexible rule regarding domestic violence verification. Unfortunately, DPW has not seen fit to respond to those concerns.

In short, the proposed final regulations do very little to protect victims of abuse from

avoidable difficulties. The likely result, of course, is that women will be forced to return to abusive situations. While we recognize that some of the domestic violence issues we raise may be addressed at a later date by anticipated TANF regulations, the question of the verification needed for GA eligibility should and, indeed, must be addressed in these regulations. After all, it is DPW that inserted this issue in the current rulemaking by requiring written verification of factors that may be dangerous or impossible to document.

Victims of domestic violence do not always have documentation of abuse. Some women do not seek "official" assistance from law enforcement or other sources because they fear retaliation. Considerable research has shown that the most dangerous time for many battered women is when they try to leave an abusive relationship. Others do not have documentation of their efforts to obtain assistance for a number of reasons: they were not given documentation by the authorities, the abuser destroyed the paperwork, or they were forced to flee without it.

Simply put, we want the combo regulation package withdrawn, so that it can be quickly amended in a way that protects women from their abusers, by allowing victims of domestic violence to establish GA eligibility by declaration, rather than be limited to documentation of the receipt of protective services.

We understand that, in order to improve its response to battered women, DPW appointed a Domestic Violence Task Force that has been working for over two years to develop policies and practices that appropriately respond to the needs of victims of domestic violence. The questions, which the Task Force has considered and the solutions it has developed are as relevant to victims of domestic violence seeking the benefits of the GA program as they are to those seeking the assistance of the TANF program.

As a result of the work of this Task Force, DPW has adopted a declaration system for allegations of domestic violence in the child support area. This is even more explicit after publication of the NORC described above. There, victims may be exempted from the usual requirement to pursue child support from former abusers, if they establish "good cause." Such good cause is usually established by documenting a history of domestic violence; but should the victim be unable to provide documentation of the abuse, she may, under existing DPW policy, declare her situation, without having to provide documentation. Assuming that other evidence does not contradict this allegation of abuse, DPW accepts it as true and exempts the alleged victim from the requirement of pursuing child support. This should also be the policy for the GA program.

We are frankly bewildered by DPW's failure to adopt a similar policy for those battered women who are unable to initially document the receipt of protective services to address their domestic violence needs.

There is also a need for flexibility in how the protective services requirement is defined. This flexibility is not incorporated into the list of services in the regulation drafted by DPW, which is a finite list. It is very possible that a victim of domestic violence will seek services that would satisfy the purpose of the rule but might not have been contemplated by DPW. DPW

appears to have recognized the need for flexibility in the protective services requirement in the Cash Assistance Handbook (CAH), where it identifies services satisfying the requirement as a non-exhaustive list, prefaced with the phrase "include, but are not limited to, the following services." CAH §105.46. This same flexibility should be incorporated into the regulations.

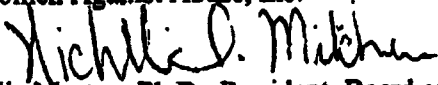
There are also significant confidentiality concerns of victims of domestic violence. Victims of domestic violence may divulge extremely personal information to the Department. They also divulge their location, information a victim may have deliberately withheld from the batterer from whom she has fled. It is therefore crucial that DPW policies protect the privacy and location of victims of domestic violence.

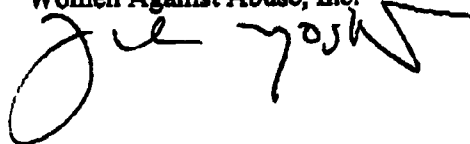
While regulation 141.61(d)(1)(vii) gives recognition to the confidentiality concerns of victims of abuse by generally referring to DPW's existing regulation on safeguarding information, it fails to adequately address the particular confidentiality concerns of victims of domestic violence. We recommend that DPW seek the input of the Domestic Violence Task Force on section 141.61(d)(1)(vii) and get the benefit of their consideration and recommendation.

We are baffled by DPW's apparent desire to make life even more difficult for women who have survived terrible assaults. The Department should have as a primary goal making its programs more accessible to victims of domestic violence. We therefore urge the Commission to disapprove these regulations.

Very truly yours,

Nichelle Mitchem, Esq. Executive Director,
Women Against Abuse, Inc.


Julie Mostov, Ph.D., President, Board of Directors
Women Against Abuse, Inc.





The Institute for the Humanities
Drexel University
33rd and Chestnut Streets
Philadelphia, PA 19104

tel: 215.895.6793
fax: 215.895.6381

FACSIMILE TRANSMISSION

TO: Rich 717 783 2664

FROM: Julie Mostou / Nichelle Mitchem

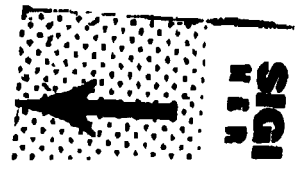
DATE: June 19, 2000

PAGES: 5

Including cover

COMMENTS:

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REVIEW COMMISSION

June 19, 2000

830 W. ...
1910 ...
1410 ...
1184 ...
1184 ...

Independent Regulatory Review Commission
Fourteenth Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Re: #14-467, formerly #14-446,
"The Combo Package"

Dear Commissioners,

We are writing to comment on and oppose the adoption of DPW's latest regulations, the so-called "Combo Package," #14-467. In particular we are concerned about the impact of these regulations on extremely low-income battered women who are attempting to escape abuse, and who desperately need General Assistance (GA) benefits.

Interim House is a women's drug and alcohol treatment program. We were one of the first women's treatment programs in the country, and we have several decades of experience helping women recover from drug and alcohol addiction. The women in our residential, intensive outpatient and outpatient programs are all extremely low-income. They are also almost universally survivors of physical and sexual assault. Domestic violence is one of the issues we struggle with in treatment, and one of the most common triggers for a relapse into drug usage and active addiction. The women in all the programs run by Interim House are struggling to rebuild their lives, with histories of surviving often horrific physical and sexual abuse, homelessness, and mental and physical illness in addition to their drug and alcohol problems. Many arrive at our facility with nothing but the clothes on their backs, and have no financial resources or assets whatsoever. We are therefore concerned both about their eligibility for GA during their initial treatment, and during their early recovery after completing our programs. We are also concerned about the effect of GA rules on other women in the community who are struggling to recover from drug addiction, alcoholism and domestic violence. GA, which is all too often the only possible



source of financial assistance for them during periods of extreme vulnerability.

The problem with DPW's proposed regulation concerning GA benefits for survivors of domestic violence lies in the Department's refusal to provide for a reasonable standard of proof for women to establish that they have been abused, and are therefore eligible for assistance.

The Public Welfare Code clearly defines those who are eligible for General Assistance to include:

A person who is a victim of domestic violence and who is receiving *protective services* as defined by the department. No individual shall qualify for general assistance under this provision for more than nine month's in that person's lifetime.

62 Purdon's Stat. 432 (3)(i)(G) (emphasis added).

Our dispute with DPW in promulgating these regulations has been the agency's failure to incorporate a reasonable standard of proof in establishing the receipt of "protective services." All too often, we have seen victims of domestic violence who have fled from abusive situations with little documentation. Of course, those fortunate enough to live in a shelter for abused women or find or maintain a relationship with an established service provider, will have no problem documenting that they are receiving protective services. However, there are many other women who have or will receive protective services but cannot document them -- they can not obtain police reports or emergency protection orders. Many are in desperate need of cash assistance. To insist that they document their receipt of protective services in particular, restrictive ways before they can get any help will cause needless delay and suffering.

DPW's Notice of Rule Change, that permits the satisfaction of the child support cooperation requirement by self-declaration, rather than the more formal route of providing formal documentation, is much more sensible. See, 30 Pa. Bull. 2957 (June 10, 2000). Thus, just last week DPW announced its intent to waive the documentation requirement for establishing a good cause exemption from the usual requirement of cooperating in the establishment of paternity and child support where there was an allegation of domestic violence. In such cases, the caseworker may waive all documentation requirements for the first six months and make a informed judgement after six months based on an assessment of the situation. NORC, 30 Pa. Bull. 2957, Item 3, Evidence to Corroborate Good Cause/Verification of Good Cause Based on Domestic Violence Form (see attached).

Especially since DPW has evinced a heightened awareness and sensitivity to this area, it is inexplicable that the GA regulations remain unchanged, requiring documentation of domestic violence protective services prior to the granting of subsistence level GA benefits.

Even before the publication of the NORC, advocates had urged DPW to amend these regulations to allow for a more flexible rule regarding domestic violence verification. Unfortunately, DPW has not seen fit to respond to those concerns.

In short, the proposed final regulations do very little to protect victims of abuse from avoidable difficulties. The likely result, of course, is that women will be forced to return to abusive situations. While we recognize that some of the domestic violence issues we raise may be addressed at a later date by anticipated TANF regulations, the question of the verification needed for GA eligibility should and, indeed, must be addressed in these regulations. After all, it is DPW that inserted this issue in the current rulemaking by requiring written verification of factors that may be dangerous or impossible to document.

Victims of domestic violence do not always have documentation of abuse. Some women do not seek "official" assistance from law enforcement or other sources because they fear retaliation. Considerable research has shown that the most dangerous time for many battered women is when they try to leave an abusive relationship. Others do not have documentation of their efforts to obtain assistance for a number of reasons: they were not given documentation by the authorities, the abuser destroyed the paperwork, or they were forced to flee without it.

Simply put, we want the combo regulation package withdrawn, so that it can be quickly amended in a way that protects women from their abusers, by allowing victims of domestic violence to establish GA eligibility by declaration, rather than be limited to documentation of the receipt of protective services.

We understand that, in order to improve its response to battered women, DPW appointed a Domestic Violence Task Force that has been working for over two years to develop policies and practices that appropriately respond to the needs of victims of domestic violence. The questions which the Task Force has considered and the solutions it has developed are as relevant to victims of domestic violence seeking the benefits of the GA program as they are to those seeking the assistance of the TANF program.

As a result of the work of this Task Force, DPW has adopted a declaration system for allegations of domestic violence in the

child support area. This is even more explicit after publication of the NORC described above. There, victims may be exempted from the usual requirement to pursue child support from former abusers, if they establish "good cause." Such good cause is usually established by documenting a history of domestic violence; but should the victim be unable to provide documentation of the abuse, she may, under existing DPW policy, declare her situation, without having to provide documentation. Assuming that this allegation of abuse is not contradicted by other evidence, DPW accepts it as true and exempts the alleged victim from the requirement of pursuing child support. This should also be the policy for the GA program.

We are frankly bewildered by DPW's failure to adopt a similar policy for those battered women who are unable to initially document the receipt of protective services to address their domestic violence needs.

There is also a need for flexibility in how the protective services requirement is defined. This flexibility is not incorporated into the list of services in the regulation drafted by DPW, which is a finite list. It is very possible that a victim of domestic violence will seek services that would satisfy the purpose of the rule but might not have been contemplated by DPW. DPW appears to have recognized the need for flexibility in the protective services requirement in the Cash Assistance Handbook (CAH), where it identifies services satisfying the requirement as a non-exhaustive list, prefaced with the phrase "include, but are not limited to, the following services." CAH §105.46. This same flexibility should be incorporated into the regulations.

There are also significant confidentiality concerns of victims of domestic violence. Victims of domestic violence may divulge extremely personal information to the Department. They also divulge their location, information a victim may have deliberately withheld from the batterer from whom she has fled. It is therefore crucial that DPW policies protect the privacy and location of victims of domestic violence.

While regulation 141.61(d)(1)(vii) gives recognition to the confidentiality concerns of victims of abuse by generally referring to DPW's existing regulation on safeguarding information, it fails to adequately address the particular confidentiality concerns of victims of domestic violence. We recommend that DPW seek the input of the Domestic Violence Task Force on section 141.61(d)(1)(vii) and get the benefit of their consideration and recommendation.

We are baffled by DPW's apparent desire to make life even more

difficult for women who have survived terrible assaults. The Department should have as a primary goal making its programs more accessible to victims of domestic violence. We therefore urge the Commission to disapprove these regulations.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Wellbank". The signature is written in a cursive, flowing style.

Kathy Wellbank, MSS, LSW
Director

Regulatory Analysis Form		This space for use by IRRC RECEIVED 2000 MAY 17 AM 11:02 REVIEW COMMISSION
(1) Agency DPW Office of Income Maintenance Bureau of Policy		IRRC Number: 2118
(2) I.D. Number (Governor's Office Use)		
(3) Short Title Revisions to the Aid to Families with Dependent Children (AFDC), General Assistance (GA), and Medical Assistance (MA) Programs mandated by Act 49, Act 20, Act 35 and permitted under the Personal Responsibility and Work Opportunity Act (PRWORA) of 1996.		
(4) PA Code Cite 55 Pa. Code Chapters 101, 125, 133, 141, 145, 166, 175, 177, 178, 181, and 183	(5) Agency Contacts & Telephone Numbers Primary Contact: Edward J. Zogby (787-4081) Secondary Contact: Gail Bean (772-7829)	
(6) Type of Rulemaking (check one) Proposed Rulemaking Final Order Adopting Regulation <input checked="" type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? No - <input checked="" type="checkbox"/> Yes: By the Attorney General ___ Yes: By the Governor ___	
(8) Briefly explain the regulation in clear and nontechnical language. The following regulations incorporate eligibility requirements for GA, GA-related MA, Federal Temporary Assistance to Needy Families (TANF, formerly the AFDC program), TANF-related MA and Medically Needy Only (MNO) MA. This summary of new, revised or deleted requirements is organized according to the Act which mandated the requirement.: See attached pages 1.A - 1.E		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Act No. 1994-49 (P.L. 319, No. 49) amending Sections 403, 408.2 and 432.(3) and (8), 432.4, 442. and 442.2 of the Public Welfare Code, Act of June 13, 1967, P.L. 31, No. 21, as amended. (62 P.S. §§403, 408.2, 432.(3) and (8), 432.4, 442.1 and 442.2) PA Drug and Alcohol Abuse Act, 71 P.S. §1690.109(c) Act No. 1995-20 (P.L. 129, No. 20) amending Sections 432(3) and 442.1 of the Public Welfare Code (62 P.S. §§432.(3) and 442.1) Act No. 1996-35 (P.L. 175, No. 35) amending Sections 402., 432., 432.4, 432.19, 432.22, 434, 442.1 and 481 of the Public Welfare Code (62 §§402., 432.4, 432.19, 432.22, 434, 442.1 and 481) 45 CFR §206.10(a)(3)(i) Title I of the PRWORA (Pub.L. 104-193) 42 U.S.C. §1396a(a)(17)(D)		

(8) Briefly explain the regulation in clear and nontechnical language. (cont.d)

The requirements and provisions of Act 49, effective September 1, 1994, include the following:

- Three or more GA recipients residing together will not receive more cash assistance than a comparable TANF household with the same number of members (62 P.S. §403(b)).
- A person refusing to apply for or cooperate in establishing eligibility for TANF for himself or for a child in his care is ineligible for GA (62 P.S. §432(8)).
- An applicant who terminates a job without good cause is ineligible for GA until 30 days after the job termination (62 P.S. §403(f)).
- An applicant is ineligible for GA unless he has been a resident of Pennsylvania for a period of at least 60 days immediately prior to application unless the applicant provides proof that the move is to escape an abusive living situation (62 P.S. §432.4(a)). **NOTE:** This Act 49 requirement, which became effective September 1, 1994, was superseded by Act 35 which imposed a 12-month durational residency requirement. The Act 35 provision became effective June 17, 1996. However, upon the advice of the Attorney General of Pennsylvania, the Department suspended implementation of the Act 35 durational residency requirement and reverted to the Act 49 requirement. Subsequently, implementation of the 60-day durational residency requirement was terminated when the U.S. District Court for the Western District of Pennsylvania issued a declaratory judgment finding the provision violated the constitutionally-protected right to travel. Warrick et al. v. Snider et al., C.A. No. 94-1634, U.S.D.C., W.D., Pa. 2 F. Supp. 2d 720. That decision was affirmed by the U.S. Court of Appeals for the Third Circuit. C.A. No. 98-3010, U.S. Ct. of Appeals, 3d Cir., August 17, 1999. 191 F 3rd 446. Accordingly, no regulation will be promulgated to implement the durational residency provision of 62 P.S. §432.4(a).
- A savings account established in a bank or other financial institution and restricted for payment of educational expenses is not considered in determining eligibility for TANF, GA or GA-related MA (62 P.S. §408.2). **NOTE:** This exemption was implemented in the TANF program effective March 3, 1997. When Act 49 was enacted in 1994, the TANF Block Grant Program was not yet in place. This exemption could not be applied to AFDC, TANF's predecessor program, without a Federal waiver which Pennsylvania did not receive. The Department is including this TANF provision in a pre-TANF regulation upon the recommendation of the Independent Regulatory Review Commission (IRRC).
- A savings account established under the Tuition Account Program and bonds purchased under the College Savings Bond Act are not considered in determining eligibility for TANF, GA or GA-related MA (62 P.S. §408.2). **NOTE:** This exemption was implemented in the TANF program effective March 3, 1997. When Act 49 was enacted in 1994, the TANF Block Grant Program was not yet in place. This exemption could not be applied to AFDC, TANF's predecessor program, without a Federal waiver which Pennsylvania did not receive. The Department is including this TANF provision in a pre-TANF regulation upon the recommendation of the IRRC.

(8) Briefly explain the regulation in clear and nontechnical language. (cont.d)

- The period of eligibility for receipt of transitionally needy assistance is reduced from 90 days in a 12-month period to 60 days in a 24-month period (62 P.S. §432(3)(iii)). **NOTE:** This Act 49 requirement, which became effective July 1, 1994, was superseded by Act 20 which eliminated the transitionally needy GA component. This provision of Act 20 became effective July 1, 1995.
- A child who is under age 18 or is age 18-20 and attending a secondary or equivalent vocational or technical school full-time and is expected to graduate or complete the program before reaching age 21 is eligible for GA if the child does not qualify for TANF (62 P.S. §432(3)(i)(A)).
- Non-parental caretakers of children under age 18 may be eligible for GA. Act 49 added a provision that the child or disabled person for whom care is provided must reside in the home with the caretaker. **NOTE:** This requirement, which became effective September 1, 1994, was superseded by Act 35 which reduced the age of the eligible GA child to under 13. The Act 35 provision became effective June 17, 1996.
- A person undergoing active treatment for substance abuse is eligible for GA and GA-related MA. This criterion expands eligibility to include a person receiving treatment administered by an agency of the Federal government. Eligibility under this criterion continues to be limited to nine months in a person's lifetime (62 P.S. §432(3)(i)(E)).
- Parents residing in a two-parent household with their child who is under 18 years of age are eligible for GA and GA-related MA. Eligibility under this criterion does not apply if the child qualifies for TANF. Both parents as well as the child must be included in the application for GA benefits (62 P.S. §432(3)(i)(B)). **NOTE:** This Act 49 requirement, which became effective September 1, 1994, was superseded by Act 35 which lowered the age of the child to under 13 or under age 21 if the child has a verified disability. The Act 35 provision became effective June 17, 1996.
- A pregnant woman whose pregnancy is medically verified and who has been determined ineligible for TANF is eligible for GA and GA-related MA (62 P.S. §432(3)(i)(F)).
- Victims of domestic violence are eligible for GA for no more than nine months in a lifetime (62 P.S. §432(3)(i)(G)).
- Certain MA services are reduced or no longer provided to GA recipients who do not qualify for Federally-funded MA. Children under age 21, pregnant women, migrants, refugees eligible for MA up to 8 months from date of entry into the United States, repatriated nationals, and persons who have applied for or been referred to the Social Security Administration for Social Security or Supplemental Security Income disability benefits qualify for Federally-funded MA, which provides coverage for more services. GA recipients who do not qualify for Federally-funded MA receive the medically needy benefits plus prescription drug coverage.

(8) Briefly explain the regulation in clear and nontechnical language. (cont.d)

The following requirements no longer apply as a basis for GA eligibility and are deleted:

- A person 45 years of age or older is no longer eligible for GA or GA-related MA solely on the basis of age. (Language deleted from 62 P.S. §432(3)(i)(B).)
- A person who is employed 30 or more hours per week whose earned income after deductions is below the monthly assistance grant level is no longer eligible for GA on this basis. (Language deleted from 62 P.S. §432(3)(i)(F).)
- A person who is ineligible for Unemployment Compensation (UC) and whose income falls below the assistance grant level as the result of a natural disaster is no longer eligible for GA under this criterion. (Language deleted from 62 P.S. §432(3)(i)(G).)
- A person who received at least 30 days of inpatient psychiatric care is no longer automatically considered to have a physical or mental incapacity which would qualify him for GA. (Language deleted from 62 P.S. §432(3)(i)(C).)
- A person who maintained full-time employment defined as at least 30 hours per week for a verified minimum of 48 months out of the eight years prior to application and has exhausted his UC benefits is no longer eligible for GA under this criterion. (Language deleted from 62 P.S. §432(3)(i)(H).)

The requirements of Act 20, effective July 1, 1995, include the following:

- Sections of 55 Pa. Code are revised to reflect the elimination of the Transitionally Needy (TN) component of the GA program, the elimination of references to the Chronically Needy GA component, and elimination of references to the now-obsolete GA-TN-related MA categories. (Language deleted from 62 P.S. §432(3)(iii).)

The requirements of Act 35, which became effective June 17, 1996, include the following:

- Initial authorization of assistance shall occur only when all factors of eligibility are verified unless verification is pending from a third party including certification of cooperation from the domestic relations section of the Court of Common Pleas and the client has cooperated in the verification attempt (62 P.S. §432.19).
- Initial authorization of assistance will not be delayed more than 30 days from the date of a completed, signed application (62 P.S. §432.19).
- The definition of “budget group” is revised to essentially copy the definition of assistance group, that is, one or more related or unrelated individuals who occupy a common residence or who would occupy a common residence if they were not homeless and whose needs and eligibility are considered together in determining eligibility for cash under one category of assistance (62 P.S. §402).

(8) Briefly explain the regulation in clear and nontechnical language. (cont.d)

- An applicant or recipient of GA who has been convicted of fraudulently securing cash assistance, medical assistance or Federal food stamps is ineligible for GA for a period of six months from the date of the first conviction, 12 months from the date of the second conviction, and permanently from the date of third conviction (62 P.S. §481(f)).
- An applicant for GA must establish that he has been a resident of the Commonwealth for at least 12 months immediately preceding his application (62 P.S. §432.4). **NOTE:** Upon the advice of the Attorney General of Pennsylvania, the Department suspended implementation of the Act 35 durational residency requirement and reverted to the 60-day residency requirement imposed by Act 49. Subsequently, Federal courts struck that provision, Warrick et al. v. Snider et al., C.A. No. 94-1634, U.S.D.C., W.D., Pa., December 9, 1997 (2 F. Supp. 2d 720); aff'd., U.S. Ct. of Appeals, 3d Cir., C.A. No. 98-3010, August 17, 1999 (191 F 3rd 446). Consequently, no regulation will be promulgated to implement the durational residency requirement of Act 35.
- General Assistance granted shall be reduced by amounts obtained by cashing an assistance check at a gambling casino, racetrack, bingo hall or other establishment that derives more than 50 percent of its gross revenues from gambling (62 P.S. §434).
- Persons who may qualify for GA and GA-related Non-money payment (NMP-MA) include persons who are parents residing in a two-parent household with their child who is under 13 years of age or their child under age 21 who has a verified disability (62 P.S. §432(3)(i)(B)).
- Persons who may qualify for GA and GA-related NMP-MA include the nonparental caretaker of a child under 13 years of age or a person who is ill or disabled when there is no one else in the household capable of providing the care without the need for GA (62 P.S. §432(3)(i)(D)).
- An applicant or recipient of GA and GA-related MA who has been assessed by a physician or psychologist as having a verified physical or mental disability which temporarily or permanently precludes him from any gainful employment must provide verification of the disability by written documentation in a form provided by the Department. Persons with a temporary disability must pursue appropriate treatment to receive assistance (62 P.S. §432(3)(i)(C)).
- A person undergoing active treatment for substance abuse in an approved drug or alcohol treatment program may qualify for GA or GA-related NMP-MA only if the treatment precludes the person from engaging in any form of employment (62 P.S. §432.(3)(i)(C)).
- A person who is not a United States citizen is ineligible for GA, GA-related NMP-MA or GA-related Medically Needy Only (MNO-MA) unless specifically required by Federal law (62 P.S. §432.22). **NOTE:** The Department has suspended implementation of this provision upon the advice of the Attorney General of Pennsylvania.

(8) Briefly explain the regulation in clear and nontechnical language. (cont.d)

- To receive MNO-MA, a person must belong to one of the following groups: a child under 21 years of age; a custodial parent of a dependent child under 21 years of age, a person age 59 or older; a refugee for whom Federal financial participation is available; a pregnant woman; a person with a disability who is receiving Social Security disability benefits, who has been referred to the Social Security Administration for a determination of eligibility for Supplemental Security Income disability benefits or who is under review for a disability by the Department based upon Social Security disability criteria; or a person who verifies employment of at least 100 hours per month earning at least the minimum wage (62 P.S. §442.1(a)(3)).
- A person applying for MNO-MA must meet the standards of both financial and nonfinancial eligibility (62 P.S. §442.1(a)(2)).
- A person applying for GA-related NMP or MNO-MA must have resided in Pennsylvania continuously for 90 days immediately preceding the effective date of MA eligibility (62 P.S. §442.1(a)(1)). **NOTE:** The Department has suspended implementation of this provision upon the advice of the Attorney General of Pennsylvania.
- In determining eligibility for retroactive MNO-MA, income received or expected to be received in a six-month period is used, even if the person requests MA coverage for less than six months (62 P.S. §442.1(c)).

The requirement of PRWORA which became effective March 3, 1997 is as follows:

- Since PRWORA eliminated the Aid to Families with Dependent Children (AFDC) program under Part A of Title IV of the Social Security Act and established the TANF program, references to AFDC found within Title 55 of the Pennsylvania Code, Handbooks, and bulletins are to be read and considered as applicable to TANF or to a TANF applicant or recipient, unless doing so would be inconsistent with the TANF State Plan published at 27 Pa. B. 342 (January 18, 1997) effective March 3, 1997, the TANF Notice of Rule Change (NORC), or with this regulation.

Miscellaneous-Related Requirement

The following requirement, related to sections of the 55 Pa. Code amended by Acts 49 and 35, is not mandated by any specific Act but codifies an existing policy implemented through a NORC effective July 17, 1993:

- A person whose disability is established by the Social Security Administration or a person with a 50 percent or more disability as established by the Department of Veterans Affairs (DVA) is eligible for GA and GA-related MA.

(8) Briefly explain the regulation in clear and nontechnical language. (cont.d)

The following requirement is not mandated by Act 49 or Act 35. 42 U.S.C. §1396a(a)(17)(D) defines for states allowable medical expense income deductions when determining spend-down eligibility for MNO-MA. The Health Care Financing Administration further clarified in its Medicaid Manual what medical and remedial expenses paid by a public program may be used as medical expense income deductions. These deductions are limited to those paid by a public program financed solely by a state or political subdivision thereof. Medical expenses paid by a public program that receives Federal funds are not permissible deductions from income. When determining eligibility for MNO-MA, medical expenses are used as deductions if the total net countable income exceeds the income limit for MNO-MA. These deductions are used to spend down the excess income to determine whether the income eligibility requirements for MNO-MA are met.

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

This regulation is mandated by the following:

Sections 3, 4, 5, 6 and 7 of Act No. 1994-49 (P.L. 319, No. 49) enacted on June 16, 1994

Sections 5 and 7 of Act No. 1995-20 (P.L. 129, No. 20) enacted on June 30, 1995

Sections 2, 9, 11, 14, 14.1, 15 and 17 of Act No. 1996-35 (P.L. 175, No. 35) enacted on May 16, 1996

Title I of the PRWORA (Pub.L. 104-193) enacted on August 22, 1996

42 U.S.C. §1396a(a)(17)(D)

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

This regulation is needed to codify the requirements of Act 49, Act 20, Act 35, and PRWORA as outlined in #8 above. State regulations must comply with State and Federal law.

As welfare costs increase and government revenues decrease, it is imperative that existing resources be expended wisely and in a manner that meets the basic needs of the Commonwealth's most vulnerable citizens. This regulation tightens the eligibility requirements for receipt of cash and medical assistance, encourages self-sufficiency and promotes personal responsibility.

The regulations in 55 Pa. Code §181.14(d) and (e) permit medical expenses to be used as deductions to spend down excess income to qualify for MNO-MA. Federal legislation permits states to expand the definition of allowable medical expense income deductions. These regulations have been revised to allow additional medical expenses as deductions from income when determining eligibility for MNO-MA spend-down.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Not applicable.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Individuals who meet the revised eligibility criteria for cash and medical assistance will benefit by having basic services as well as supportive services available to them. Supportive services include funds to cover child care and transportation expenses necessary to seek and maintain employment.

The Commonwealth will benefit from the savings generated by the regulation.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Persons adversely affected by the provisions of Act 49:

- Persons age 45 and older who previously qualified for GA solely on the basis of age.
- Persons employed at least 30 hours per week who previously qualified for GA due to inadequate earnings.
- Persons who previously qualified for GA on the basis of a work record.

See attached Page 3.A.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Applicants and recipients of TANF, GA and MA are affected by and must comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

This regulation is mandated by Act 49, Act 20, Act 35, and PRWORA which were enacted out of a general legislative and public consensus that the welfare system needs reform, that the spiraling costs of providing services must be curtailed, that individuals must accept responsibility for their actions and must work toward self-sufficiency if they are capable of doing so.

The Department received input on the regulations from the Income Maintenance Advisory Committee, the Medical Assistance Advisory Committee and the Hospital Association of Pennsylvania.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(14) Describe who will be affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.) (Cont.d)

Persons adversely affected by the provisions of Act 20:

- Employable persons who previously qualified for time-limited GA. (Estimated number of affected persons -- 16,345.)

Persons adversely affected by the provisions of Act 35:

- Persons in GA households caring for a child over the age of 13. (Estimated number of affected persons -- 800.)
- Persons who are not citizens who do not meet the criteria for a Federal category of assistance. (Estimated number of affected persons -- 4,722.) **NOTE:** Implementation of this provision has been suspended.
- Persons applying for GA who have not been residents of Pennsylvania for at least 12 months prior to application. (Estimated number of affected persons -- 1,563.) **NOTE:** Implementation of this provision has been suspended. The 60-day residency requirement implemented under Act 49 remains in effect.
- Persons applying for MA who have not been residents for at least 90 days prior to application. **NOTE:** Implementation of this provision has been suspended.
- Persons applying for or receiving GA who are actively participating in an approved drug or alcohol treatment but who are considered employable. (Estimated number of affected persons -- 3,000.)
- GA recipients who cash their assistance checks in establishments that derive more than 50 percent of their gross revenues from gambling. (Estimated number of affected persons -- unknown.)
- Applicants or recipients of GA who have been convicted of welfare fraud. (Estimated number of affected persons -- unknown.)
- Applicants for TANF or GA who are now subject to a 30-day application processing time period. (Estimated number of affected persons -- number of affected persons is unknown; however, there were approximately 236,450 applications authorized in fiscal year 1995-96.)
- An individual who is not a custodial parent of a minor child and who is between the ages of 21 and 59 and is not pregnant, disabled or working at least 100 hours a month at minimum wage. (Estimated number of affected persons -- unknown.)

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There will be no costs or savings incurred by local governments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The cost of implementation is reflected in Item 20.

Tom Kelly 1-5-00

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

(Dollar Amounts In Thousands)

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$353,993	\$354,321	\$354,321	\$354,321	\$354,321	\$354,321
Total Savings	\$353,993	\$354,321	\$354,321	\$354,321	\$354,321	\$354,321
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the estimates listed above were derived.

The savings for the current year listed above include: \$111.178 million for Act 1994-49; \$28.136 million for Act 1995-20; and \$214.679 million for Act 1996-35. These estimates reflect prior year budget projections. This is due to an inability to separately identify the effect of changes which have been implemented in prior years.

Regulatory Analysis Form

(20b) Provide the past three years expenditure history for programs affected by the regulation.
(Dollar Amounts in Thousands)

Program	FY -3	FY -2	FY -1	Current FY
Cash Grants	\$523,236	\$323,388	\$259,688	\$211,394
Medical Assistance-Inpatient	\$436,941	\$428,079	\$453,594	\$325,501
Medical Assistance-Outpatient	\$798,836	\$662,740	\$695,935	\$533,521
Medical Assistance-Capitation	\$626,094	\$959,286	\$1,026,075	\$1,452,259
Long-Term Care Facilities	\$591,910	\$617,252	\$721,631	\$761,219

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Implementation of this regulation is a savings to the Commonwealth. Scarce resources that had been provided to able-bodied, employable recipients are now being channeled to the truly needy. Personal responsibility and self-sufficiency are the by-products of welfare reform.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Non-regulatory alternatives were not considered since this regulation is required by Act 49, Act 20, Act 35, PRWORA, and 42 U.S.C. §1396a(a)(17)(D).

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not applicable.

Certain Effects of Act 1994-49, Act 1995-20, and Act 1996-35
Fiscal Note
Cash Grants
(Dollar Amounts in Thousands)

	State \$ Savings	Cash & Medical
<u>1994-49</u>		
Redefine CN Eligibility	(49,226)	
Limit TN Benefit	(43,840)	
Close AFDC Loophole	(1,184)	
Limit FSA for GA	(306)	
Voluntary Term. of Employment	(560)	
Exempt Education Savings	319	
	<hr/>	
Total 1994-49	(94,797)	(111,178)
<u>1995-20</u>		
Elimination of TN	(28,136)	(28,136)
<u>1996-35</u>		
30 Day Initial Authorization	(1,789)	(214,679)
	<hr/>	
Total Annual Cash Grant Savings	(124,722)	(353,993)

Medical Assistance Fiscal Impact

Regulations	Appropriation	FY 96-97		FY 97-98		FY 98-99		FY 99-00		F
ACT 1994-49										
1. General Assistance Restructure	Inpatient	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Outpatient	(\$15,437,000)	\$0	(\$15,745,000)	\$0	(\$16,060,000)	\$0	(\$16,381,000)	\$0	(\$16,7
	Capitation	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	LTC	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total	(\$15,437,000)	\$0	(\$15,745,000)	\$0	(\$16,060,000)	\$0	(\$16,381,000)	\$0	(\$16,7
ACT 1996-35*										
1. Strengthening Unemployability/ Disability Req. for GA Eligibility	Inpatient	(\$5,587,863)	(\$3,777,747)	(\$27,444,160)	(\$18,129,080)	(\$27,444,160)	(\$18,129,080)	(\$27,444,160)	(\$18,129,080)	(\$27,4
	Outpatient	(\$3,829,874)	\$407,384	(\$18,602,599)	\$4,784,853	(\$18,602,599)	\$4,784,853	(\$18,602,599)	\$4,784,853	(\$18,6
	Capitation	(\$3,308,542)	(\$2,305,384)	(\$6,730,936)	(\$4,704,762)	(\$6,730,936)	(\$4,704,762)	(\$6,730,936)	(\$4,704,762)	(\$6,7
	LTC	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Total	(\$12,726,279)	(\$5,675,747)	(\$52,777,695)	(\$18,048,989)	(\$52,777,695)	(\$18,048,989)	(\$52,777,695)	(\$18,048,989)	(\$52,7
2. Discontinue GA-MNO	Inpatient	(\$58,645,458)	(\$72,942,275)	(\$89,750,274)	(\$113,471,028)	(\$89,750,274)	(\$113,471,028)	(\$89,750,274)	(\$113,471,028)	(\$89,7
	Outpatient	(\$22,646,000)	(\$4,848,000)	(\$35,528,056)	(\$7,635)	(\$35,528,056)	(\$7,635)	(\$35,528,056)	(\$7,635)	(\$35,5
	Capitation	(\$21,441,072)	(\$509,760)	(\$32,993,366)	(\$790,128)	(\$32,993,366)	(\$790,128)	(\$32,993,366)	(\$790,128)	(\$32,9
	LTC	(\$51,000)	\$0	(\$80,000)	\$0	(\$80,000)	\$0	(\$80,000)	\$0	(\$
	Total	(\$102,783,530)	(\$78,300,035)	(\$158,351,696)	(\$114,268,791)	(\$158,351,696)	(\$114,268,791)	(\$158,351,696)	(\$114,268,791)	(\$158,3
3. Construct the MNO Elig. Period	Inpatient	(\$1,478,468)	(\$1,658,532)	(\$1,760,417)	(\$2,005,583)	(\$1,760,417)	(\$2,005,583)	(\$1,760,417)	(\$2,005,583)	(\$1,7
	Outpatient	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Capitation	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	LTC	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Totals	(\$1,478,468)	(\$1,658,532)	(\$1,760,417)	(\$2,005,583)	(\$1,760,417)	(\$2,005,583)	(\$1,760,417)	(\$2,005,583)	(\$1,7
GRAND TOTAL										
Inpatient	(\$66,711,789)	(\$78,378,554)	(\$118,954,851)	(\$133,605,691)	(\$118,954,851)	(\$133,605,691)	(\$118,954,851)	(\$133,605,691)	(\$118,9	
Outpatient	(\$41,912,874)	(\$4,440,616)	(\$69,875,655)	\$4,777,218	(\$70,190,655)	\$4,777,218	(\$70,511,655)	\$4,777,218	(\$70,8	
Capitation	(\$24,749,614)	(\$2,815,144)	(\$39,724,302)	(\$5,494,890)	(\$39,724,302)	(\$5,494,890)	(\$39,724,302)	(\$5,494,890)	(\$39,7	
LTC	(\$51,000)	\$0	(\$80,000)	\$0	(\$80,000)	\$0	(\$80,000)	\$0	(\$	
Totals	(\$132,425,277)	(\$85,634,314)	(\$228,634,808)	(\$134,323,363)	(\$228,949,808)	(\$134,323,363)	(\$229,270,808)	(\$134,323,363)	(\$229,5	

*Source: 97-98 Budget Request

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Yes. The following Act 1996-35 provisions are more stringent than Federal standards for TANF:

- Parental caretakers may receive GA and GA-related MA only until their child reaches age 13 or until age 21 if the child is disabled
- Non-parental caretakers of a child may receive GA and GA-related MA only until the child reaches age 13
- Childless persons between the ages of 21 and 59 are ineligible for MNO-MA unless they are permanently disabled or employed 100 hours per month earning at least the minimum wage
- Persons convicted of welfare fraud in the GA, TANF, or Food Stamp Programs are ineligible for GA until the period of sanction is satisfied
- Persons who cash an assistance check in a gambling establishment are ineligible for GA in the amount of the check that was cashed

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Pennsylvania's regulations are more restrictive than those of New Jersey. New Jersey continues to provide benefits to GA eligibles regardless of employability or citizenship status. There is no time limit attached to receipt nor is there a residency requirement. New York also provides GA-home relief benefits to employable and unemployable persons. Persons who move to New York from a state that does not have a GA program are ineligible for GA-home relief benefits for a period of six months.

See attached Page 7.A.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states? (cont.d)

Ohio discontinued its GA program for employables in August 1995. However, they continue to provide GA to certain categories of individuals such as children under age 18, adults age 60 or older, pregnant women, individuals undergoing active treatment for substance abuse while in a drug and alcohol treatment facility and persons who are disabled for a period of nine to twelve months. Persons who are disabled and who do not qualify under a Federal category are ineligible for MA. Ohio's program is the most similar to Pennsylvania's.

Maryland provides limited benefits (\$100 flat grant) to GA unemployables under the Transitional Emergency Medical and Housing Assistance program. Individuals (who are not subject to a durational residency requirement) receive benefits for a limited period; i.e., twelve months in every three-year period.

Given the GA program requirements of the surrounding states, it appears that Pennsylvania's GA program operates under comparable or more restrictive standards.

The change to the eligibility requirements for MNO-MA spend-down is consistent with those states that have an MNO-MA program that allows persons with income in excess of the eligibility limits to deduct medical expenses from their income to qualify on the basis of "spending down" their income. The change complies with Federal requirements, preventing Pennsylvania from being competitively disadvantaged with other states.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Revisions to the GA disability requirements under Act 1996-35 prompted the Department to develop several new forms. The following forms are used to determine eligibility for GA and GA-related MA based on a permanent disability, a temporary disability, the need for health-sustaining medication and active participation in a drug and alcohol treatment program.

See attached Page 8.A.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Act 49 contained provisions that extended GA and GA-related MA eligibility to:

- Pregnant women;
- Victims of domestic violence;
- High school students under age 21;
- Two-parent households

See attached Page 8.A.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The effective date of the Act 49 requirements is retroactive to September 1, 1994 with the exception that the savings for education exemption applicable for the TANF program is retroactive to March 3, 1997. A Notice of Rule Change was published at 24 Pa. B. 4425 (August 27, 1994). The Notice of Rule Change that includes the TANF savings for education exemption was published at 27 Pa. B. 1092 (March 1, 1997).

The effective date of the Act 20 requirements is retroactive to July 1, 1995. A Notice of Rule Change was published at 25 Pa. B. 2762 (July 8, 1995).

The effective date of the Act 35 requirements is retroactive to June 17, 1996. A Notice of Rule Change was published at 26 Pa. B. 2865 (June 15, 1996).

See attached Page 8.A.

(31) Provide the schedule for continual review of the regulation.

The Department conducts periodic reviews of the GA program in accordance with Section 403(e) of the Public Welfare Code. TANF and MA regulations are also reviewed through the Department's Quality Control and Corrective Action review process.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

- PA 1663 - Employability Assessment Form (See attached)
- PA 1664 - Employment Reassessment Form (See attached)
- PA 1671 - Health-Sustaining Medication Assessment Form (See attached)
- PA 1672 - Drug and Alcohol Treatment Information Form (Form not available)

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers. (cont.d)

In response to the disability provisions of Act 35, the PA 1663.1, and PA 1663.2 Employability Assessment Form Addendums, are being developed to satisfy State and Federal requirements relative to the release of information by providers when it relates to mental health or HIV/AIDS.

In addition, the restrictions placed on GA and GA-MNO eligibility based on disability necessitated the development of a health-care benefit package that covers the cost of a medical examination for persons claiming to be permanently or temporarily disabled who would otherwise be unable to provide medical documentation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The effective date of the PRWORA requirement found at 55 Pa. Code §101.1 that eliminates the reference to AFDC and replaces it with a reference to Temporary Assistance for Needy Families is retroactive to March 3, 1997. A Notice of Rule Change was published at 27 Pa. B. 1092 (March 1, 1997).

The effective date of the expansion of medical expense deductions from income, based on 42 U.S.C. §1396a(a)(17)(D), is retroactive to February 1, 1999. Instructions have been provided to county assistance offices advising them of this change.

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

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Copy below is hereby approved as to form and legality.
Attorney General

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
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Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

DEPARTMENT OF PUBLIC WELFARE
(Agency)

LEGAL COUNSEL: Jean E. Shaybill

DOCUMENT/FISCAL NOTE NO. #14-467
(DPW-OIM-04-97-003)

DATE OF ADOPTION: _____

BY: Gather Hobson

TITLE: SECRETARY OF PUBLIC WELFARE
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: Howard B...

5-10-00
Date of Approval

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF FINAL RULEMAKING
OMITTING PROPOSED
DEPARTMENT OF PUBLIC WELFARE
OFFICE OF INCOME MAINTENANCE
BUREAU OF POLICY

- [55 PA. CODE CHAPTER 101]
GENERAL PROVISIONS
- [55 PA. CODE CHAPTER 125]
APPLICATION PROCESS
- [55 PA. CODE CHAPTER 133]
REDETERMINING ELIGIBILITY
- [55 PA. CODE CHAPTER 141]
GENERAL ELIGIBILITY PROVISIONS
- [55 PA. CODE CHAPTER 145]
AGE
- [55 PA. CODE CHAPTER 166]
EMPLOYMENT AND COMMUNITY WORK EXPERIENCE PROGRAM
- [55 PA. CODE CHAPTER 175]
ALLOWANCE AND BENEFITS
- [55 PA. CODE CHAPTER 177]
RESOURCES
- [55 PA. CODE CHAPTER 178]
RESOURCE PROVISIONS FOR CATEGORICALLY NEEDY
NMP-MA AND MNO-MA
- [55 PA. CODE CHAPTER 181]
INCOME PROVISIONS FOR CATEGORICALLY
NEEDY NMP-MA AND MNO-MA
- [55 PA. CODE CHAPTER 183]

The Department of Public Welfare, by this Order, adopts the regulations set forth in Annex A, pursuant to the authority of §§201(2) and 403(b) of the Public Welfare Code, Act of June 13, 1967, (P.L. 31, No. 21) (62 P.S. §§201(2) and 403(b)).

Notice of proposed rulemaking is omitted in accordance with §204(1)(iv) of the Commonwealth Documents Law (CDL) (45 P.S. §1204(1)(iv)) and 1 Pa. Code §7.4(1)(iv) because the administrative regulations relate to Commonwealth grants and benefits. Additionally, notice of proposed rulemaking is omitted for good cause as unnecessary and contrary to the public interest in accordance with §204(3) of the CDL (45 P.S. §1204(3)) and 1 Pa. Code §7.4(3).

The amendments, except for the amendment pertaining to allowable medical expense income deductions, are a result of Federal and State statutory mandates allowing for no administrative discretion. These amendments, except the amendment pertaining to allowable medical expense income deductions, have been implemented through Notices of Rule Change (NORCs) published at 24 Pa.B. 4425 (August 27, 1994), effective September 1, 1994; 25 Pa.B. 2762 (July 8, 1995), effective July 1, 1995; 26 Pa.B. 2865 (June 15, 1996), effective June 17, 1996; and 27 Pa.B. 1092 (March 1, 1997), effective March 3, 1997. Additionally, these amendments include a discretionary provision which benefits applicants and recipients and was implemented through a NORC published at 23 Pa.B. 3433 (July 17, 1993), effective July 17, 1993.

The amendment pertaining to allowable medical expense income deductions is a result of §1902(a)(17) of the Social Security Act (42 U.S.C. §1396a(a)(17)(D)), as clarified by the Health Care Financing Administration (HCFA), which defines what states may use as allowable medical expense income deductions when determining eligibility for Federally-funded categories of Medically Needy Only (MNO)- Medical Assistance (MA). This amendment applies to the Federally-funded categories of MNO-MA and will also be applied to the General Assistance (GA)-related MNO-MA category. This amendment was implemented on February 1, 1999, through written procedural instructions.

These amendments conform State regulations with State statute, reduce State costs, streamline the GA program, and ensure that needy individuals of this Commonwealth are assisted in their efforts to become self-sufficient in accordance with legislation enacted by the General Assembly.

Purpose

The purpose of these amendments is to incorporate eligibility requirements for General Assistance (GA), GA-related Medical Assistance (MA), Federal Temporary Assistance for Needy Families (TANF - which replaced the Aid to Families With Dependent Children [AFDC] program), TANF-related MA and Medically Needy Only (MNO) MA. These amendments are mandated by State and Federal law as discussed in the Background section.

Background

The Act of June 16, 1994, P.L. 319, No.49 (Act 49) amended the Public Welfare Code by making significant changes to the GA Program that had been largely untouched by reform measures since the passage in 1982 of Act 1982-75 (Act 75). Act 75 introduced time-limited cash grants and a distinction between Transitionally Needy (TN-employable) and Chronically Needy (CN) GA recipients. Act 49 reduced the eligibility period for TN benefits, imposed a 60-day residency requirement on TN and CN clients, tightened eligibility requirements under the CN component and reduced MA services available to both TN and CN clients. The legislative mandates of Act 49 were implemented effective September 1, 1994 through a NORC published at 24 Pa.B. 4425 (August 27, 1994). Effective December 9, 1997, the Department stopped applying the 60-day durational residency requirement for GA (62 P.S. §432.4(a)) added by Section 6 of Act 49. The United States District Court for the Western District of Pennsylvania, in the case of Warrick et al. v. Snider et al., C.A. No. 94-1634, U.S.D.C., W.D., Pa., ruled that 62 P.S. §432.4(a) is unconstitutional. 2 F Supp. 2d 720. That decision was affirmed by the U. S. Court of Appeals for the Third Circuit, at C.A. No. 98-3010, August 17, 1999. 191 F 3rd 446. Consequently, no regulations will be promulgated to implement the 60-day residency portion of §432.4(a) of the Public Welfare Code.

The Act of June 30, 1995, P.L. 129, No. 20 (Act 20) further amended the Public Welfare Code by eliminating the TN component of the GA Program and deleting or replacing references to the CN component with the phrase "General Assistance" as applicable. Categorical eligibility for the GA program is now determined using criteria formerly referred to as CN criteria. These provisions were implemented through a NORC published at 25 Pa.B. 2762 (July 8, 1995) effective July 1, 1995.

Thereafter, the Act of May 16, 1996, P.L. 175, No. 35 (Act 35) again amended the Public Welfare Code by further tightening GA eligibility criteria. These provisions were implemented through a NORC effective June 17, 1996 published at 26 Pa.B. 2865 (June 15, 1996). Act 35 also imposed a 12-month residency requirement on GA and a 90-day residency requirement on MA applicants and redefined categorical eligibility for the GA-related Medically Needy Only (MNO) Program. Based upon the advice of the Attorney General of Pennsylvania, the Department is not implementing the Act 35 12-month durational residency requirement for GA (62 P.S. §432.4(a)), added by Section 11 of Act 35), the 90-day durational residency requirement for MA (62 P.S. §442.1(a)(1), added by Section 15 of Act 35), and the prohibition against granting assistance to non-citizens (62 P.S. §432.22, added by Section 14.1 of Act 35), and will not be promulgating regulations to implement these provisions.

In addition to the State welfare reform acts, Federal welfare reform under Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub.L. 104-193 (PRWORA) was enacted on August 22, 1996. PRWORA eliminated the AFDC Program under Part A of Title IV of the Social Security Act, established the TANF Program (42 U.S.C. §§601 through 619) and mandated the implementation of the TANF requirements no later than July 1, 1997. Although the TANF Program replaces the AFDC Program, most of the rules and procedures under which the Department administered AFDC, including those for the Job Opportunities and Basic Skills (JOBS) Training Program, will continue in effect as part of the new TANF Program.

This regulation contains only the provision of PRWORA that changes the name of the Federal cash assistance program from AFDC to TANF. That change was implemented through a NORC published at 27 Pa.B. 1092 (March 1, 1997) effective March 3, 1997. The remaining provisions of PRWORA will be promulgated at a later date under a separate regulation package. All references to AFDC found within Title 55 of the Pennsylvania Code, Handbooks, Bulletins or Notices of Rule Change published in the Pennsylvania Bulletin are to be read and considered as applicable to TANF or to a TANF applicant or recipient, unless doing so would be inconsistent with the TANF State Plan published at 27 Pa.B. 342 (January 18, 1997) effective March 3, 1997, the TANF NORC or with this regulation.

In addition to the legislative mandates, this regulation contains a requirement beneficial to applicants and recipients which was implemented effective July 17, 1993 through the NORC published at 23 Pa.B. 3433 (July 17, 1993). Verification requirements for disability were revised to permit the acceptance of physical or mental disability determinations based on documentation provided by sources such as the Social Security Administration, the Department of Veterans Affairs or the Department's Medical Review Team (MRT), in addition to the Department's standard verification forms. This revision was not mandated by State or Federal legislation but is included in this regulation since it relates to the sections of the Pennsylvania Code amended by Acts 49 and 35.

In addition to the changes announced in the NORCs, the Department is amending the regulation at §181.14 that defines an allowable medical expense income deduction when determining eligibility for MNO-MA. A clarification through instructions to Departmental staff was issued on February 1, 1999 expanding allowable medical expense

income deductions. Per the request of the Independent Regulatory Review Commission, this regulation was amended to support the clarification that had been issued. Medical and remedial expenses paid by a public program on behalf of an individual are allowable deductions from income when determining eligibility for MNO-MA. The public program must be wholly financed by funds from the State or political subdivision. Political subdivision includes, but is not limited to, township, county, or district. Medical expenses paid by a public program that receives Federal funds are not permissible deductions from income. This regulation is beneficial to applicants/recipients applying for, or receiving, MNO-MA.

Need For Regulation

The Department of Public Welfare is required to comply with Federal and State law. This regulation is needed for consistency between Department regulations and legislative changes.

Summary of Amendments

This summary of new, revised or deleted requirements is organized according to the Act which mandated the requirements and the eligibility group which is affected by them.

I. Act 49

A. The following are non-financial eligibility requirements that apply to GA (cash) applicants and recipients:

1. **Section 141.21(r)** - This subsection is added to specify that three or more GA recipients residing together will not receive more cash assistance than a comparable AFDC (now TANF) household with the same number of members. (62 P.S. §403(b))

2. **Section 141.61(a)(1)(xii)** - This subparagraph is revised to specify that a person refusing to apply for or cooperate in establishing eligibility for AFDC (now TANF) for himself or for a child in his care will not be eligible for GA. (62 P.S. §432.8))

3. **Section 141.61(a)(1)(xiv)** - This subparagraph is added to specify that an applicant who terminates a job without good cause is ineligible for GA until 30 days after the job termination. (62 P.S. §403(f))

4. **Section 141.61(d)(4)** – This paragraph is added to specify that GA recipients are eligible, at a minimum, for MNO-MA benefits plus coverage for prescribed medications. There are GA cash recipients who are eligible to receive additional MA benefits. The Department receives Federal funding for the MA benefits received by these recipients. These recipients include children under age 21, pregnant women, migrants, refugees eligible for MA up to 8 months from date of entry into the United States, repatriated nationals, and persons who have applied for or are referred to the Social Security Administration for Social Security or Supplemental Security Income disability benefits

B. The following are non-financial eligibility requirements that apply to TANF and GA (cash) applicants and recipients:

1. Section 177.21(a)(11) - This paragraph is added to specify that a savings account established in a bank or other financial institution and restricted for payment of educational expenses is not considered in determining eligibility. The monies deposited and the interest earned are exempt as long as the account is designated for educational expenses. Funds withdrawn from the restricted account and used for purposes other than educational expenses will be added to the total resources of the budget group to determine eligibility in the month of withdrawal and subsequent months. (62 P.S. §408(2))

2. Section 177.21(a)(12) - This paragraph is added to specify that a savings account established under the Tuition Account Program and bonds purchased under the College Savings Bond Act are not considered in determining eligibility. (62 P.S. §408(2))

NOTE: These exemptions were implemented in the TANF program effective March 3, 1997. When Act 49 was enacted in 1994, the TANF Block Grant Program was not yet in place. These exemptions could not be applied to AFDC, TANF's predecessor program, without a Federal waiver which Pennsylvania did not receive. The Department is including these TANF provisions in this pre-TANF regulation upon the recommendation of the Independent Regulatory Review Commission.

C. The following are nonfinancial eligibility requirements that apply to persons who qualify for GA (cash) or GA-related Nonmoney Payment (NMP) MA.

1. Section 141.61(d)(1)(ii) - The original provision of this subparagraph is deleted and new language is added to specify that parents residing in a two-parent household with their child who is under 18 years of age are eligible for GA or GA-related NMP-MA. Eligibility under this criterion does not apply if the child qualifies for AFDC (now TANF). Both parents as well as the child must be included in the application for GA benefits. (62 P.S. §432(3)(i)(B))

NOTE: The provisions of this subparagraph became effective September 1, 1994 but were superseded by a requirement of Act 35 that permits parents residing with their child to receive GA only if the child is under age 13 unless the child is disabled. (See III.D.1., the section relating to GA cash and GA-related MA program requirements, §141.61(d)(1)(ii).) The provision of Act 35 became effective June 17, 1996. The language in Annex A reflects current requirements.

2. Section 141.61(d)(1)(vi) - The original provision of this subparagraph is deleted and new language is added to specify that a pregnant woman whose pregnancy is medically verified and who has been determined ineligible for AFDC (now TANF) is eligible for GA. (62 P.S. §432(3)(i)(F))

3. Section 141.61(d)(1)(vii) - The original provision of this subparagraph is deleted and new language is added to specify that victims of domestic violence are eligible for GA or GA-related NMP-MA. The individual must be receiving protective services as defined in this section. Eligibility for GA under this criterion is limited to nine months over the recipient's lifetime. (62 P.S. §432(3)(i)(G))

D. The following are requirements that apply to persons who are eligible for GA (cash) or GA-related NMP-MA under modified criteria:

1. Section 141.61(d)(1)(i) - This subparagraph is revised to specify that a child who is under age 18 or is age 18-20 is eligible for GA if the child does not qualify for AFDC (now TANF) and is attending a secondary or equivalent vocational or technical school full-time and is expected to graduate or complete the program before reaching age 21. (62 P.S. §432(3)(i)(A))
2. Section 141.61(d)(1)(iii) - Throughout this subparagraph the term "handicap" is replaced by the term "disability" as used in Act 1994-49. The term "disability" is also used throughout the Federal Americans with Disabilities Act.

3. Section 141.61(d)(1)(iii)(B)(II) - This subclause is added to specify that a person whose disability is established by the Social Security Administration or a person with a 50 percent or more disability as established by the Department of Veteran's Affairs (DVA) is eligible for GA or GA-related NMP-MA.
4. Section 141.61(d)(1)(iii)(D) - This subclause is added to clarify that a person who has been assessed by a physician or psychologist as having a verified disability that temporarily or permanently precludes any gainful employment is eligible for GA or GA-related NMP-MA. Eligibility for GA under this criterion is not contingent upon participation in a drug or alcohol treatment program as long as the person remains disabled after the substance abuse is successfully treated. (62 P.S. §432(3)(i)(C))
5. Section 141.61(d)(1)(iii)(E) - This subclause is added to clarify that persons who have a verified disability solely related to substance abuse that prevents any employment are eligible for GA or GA-related NMP-MA. Eligibility is contingent upon accepting and participating in an available treatment program. (71 P.S. §1690.109(d))
6. Section 141.61(d)(1)(iv) - This subparagraph was revised under Act 49 to specify that non-parental caretakers of children under age 18 may be eligible for GA or GA-related NMP-MA. Act 49 added a provision that the child or disabled person for whom care is provided must reside in the home with the caretaker. (62 P.S. §432(3)(i)(D))

NOTE: The provisions of this subparagraph became effective September 1, 1994 but were superseded by a requirement of Act 35 that permits non-parental caretakers of a child to receive GA only if the child is under age 13 and there is no other person in the home capable of providing the care without the need for GA. (See III.D.4., the section relating to GA cash and GA-related MA program requirements, §§141.61(d)(1)(iv) and 141.71.) The Act 35 provision became effective June 17, 1996. The language in Annex A incorporates all of these changes.

7. Section 141.61(d)(1)(v) - This subparagraph was revised under Act 49 to clarify that a person receiving active treatment for substance abuse in a program administered by an agency of the Federal government is eligible for GA or GA-related NMP-MA. Eligibility under this criterion continues to be limited to nine months in a person's lifetime. (62 P.S. §432(3)(i)(E))

NOTE: The provisions of this subparagraph became effective September 1, 1994 but were superseded by a requirement of Act 35 that permits a person undergoing active treatment in an approved drug or alcohol treatment facility to receive GA only if the treatment precludes any form of employment. (See III.D.5., the section relating to GA cash and GA-related MA program requirements, §§141.61(d)(1)(v) and 141.71.) The Act 35 provision became effective June 17, 1996. The language in Annex A reflects current requirements.

8. Section 141.61(d)(2) - Under Act 49, the period of eligibility for TN assistance was reduced to 60 days in a 24-month period. (62 P.S. §432(3)(iii))

NOTE: The provisions of this subparagraph which became effective July 1, 1994 were subsequently superseded by a requirement of Act 20 that eliminated the TN component of the GA program and deleted references to TN and CN within the Public Welfare Code. (See II., the section labeled Act 20.) The Act 20 provision became effective July 1, 1995.

9. Sections 145.63(c)(1), (c)(3)(ii), and 145.64(b)(1) - These sections are revised to specify that the age limit for a student attending secondary school is changed from under age 19 to under age 21. (62 P.S. §432(3)(i)(A))
10. Section 166.23(c)(2) - This paragraph is revised to delete the prohibition against assigning an individual 45 years of age or older to a Community Work Experience Program project.

E. The following non-financial requirements no longer apply as a basis for eligibility and these provisions are being deleted:

1. A person 45 years of age or older is no longer eligible for GA or GA-related NMP-MA on the basis of age. This language is deleted from §141.61(d)(1)(ii).
2. A person who is employed 30 or more hours per week whose earned income after deductions is below the monthly assistance grant level is no longer eligible for GA. This language is deleted from §141.61(d)(1)(vi).
3. A person who is ineligible for Unemployment Compensation (UC) and whose income falls below the assistance grant level as the result of a natural disaster is no longer eligible for GA under this criterion. This language is deleted from §141.61(d)(1)(vii).
4. A person who maintained full-time employment defined as at least 30 hours per week for a verified minimum of 48 months out of the eight years prior to application and has exhausted his Unemployment Compensation benefits is no longer eligible for GA. Section 141.61(d)(1)(viii) is therefore deleted from the Code.

5. Recipients who did not meet CN criteria were permitted to receive CN assistance from April 8, 1982 through December 31, 1982. Since this provision became obsolete effective January 1, 1983, §141.61(d)(1)(ix) is deleted from the Code.

F. For GA-related MA, the following provisions are changed:

1. Section 141.71(c)(2) is revised to clarify the level of MA benefits associated with the receipt of GA cash assistance. Children under age 21, pregnant women, migrants, refugees eligible for MA up to 8 months from date of entry into the United States, repatriated nationals, and persons who have applied for or are referred to the Social Security Administration for Social Security or Supplement Security Income disability benefits qualify for additional MA benefits under Federally-funded MA, if otherwise eligible.
2. Section 141.81(c) (3)(v)(A) is revised to clarify the categories of MA that qualify for Federally-funded MA and specify persons who may be eligible for MNO-MA under the TD category.
3. Sections 178.11(4)(i) and 178.11(6) are revised to clarify the category of MA eligibility for children and GA eligibles who do not receive cash assistance.

4. Sections 178.11(7), 178.12(7), 181.41(4)(i), 181.41(7) and 181.42(8) are revised to reflect the change in eligibility conditions, the age limits and type of MA coverage provided under Act 49.

NOTE: The provisions of paragraphs 178.11(7), 178.12(7), 181.41(7) and 181.42(8) which became effective September 1, 1994 were superseded by changes to these provisions in Act 20 which was effective July 1, 1995. (See II., the section labeled Act 20. The language in Annex A reflects current requirements.

G. For GA-related MA, the following eligibility criterion is added:

- Section 178.165 - An education savings account established in a financial institution and specifically designated for payment of educational expenses is disregarded in determining eligibility. A savings account established under the Tuition Account Program and bonds purchased under the College Savings Bond Act are also disregarded in determining eligibility.

II. Act 20

A. The following sections of 55 Pa. Code are revised to reflect the elimination of the GA-TN component, the elimination of references to the CN component and elimination of references to the now obsolete GA-TN-related MA categories:

1. Sections 133.23(a)(2)(ii)(L), 141.61(a)(1), 141.61(d), 141.61(d)(1), 141.61(d)(1)(ii), 141.61(d)(1)(v) and 141.71(c)(2) - references to TN and CN are deleted.
2. Sections 141.61(d)(1)(iii)(C)(I) and (II) - These subclauses are deleted because the TN program is eliminated and there is no longer a distinction between CN and TN recipients. Persons now eligible for GA on the basis of disability are not referred to the Employment and Training Program.
3. Section 141.61(d)(2), (d)(2)(i) and (d)(2)(ii) - These paragraphs and subparagraphs are deleted because the TN program is eliminated.
4. Section 141.61(d)(3) - This paragraph is deleted because parents and children who qualify for GA are no longer designated TN and CN recipients.
5. Section 178.11(7) - This paragraph is deleted because it described a person eligible for the TN component of GA which is eliminated.
6. Section 178.12(7) - This paragraph is reserved because it described a person eligible for the TN component of GA which is eliminated.
7. Sections 181.1(d)(1) and (2) - References to the PK and TK (TN-related) categories are deleted because the TN component of GA is eliminated.

8. Section 181.2 - The definitions of PK and TK categories are deleted because the TN component is eliminated.
9. Section 181.41(6) - The reference to PK category is deleted because the TN component of GA is eliminated.
10. Sections 181.41(7) and 181.42(8) - These paragraphs are deleted because they described persons eligible for the TN component of GA which is eliminated.

III. Act 35

A. The following requirements, enacted under Act 35 and permitted by PRWORA, apply to the TANF Program, and GA cash and related NMP-MA programs:

1. Sections 125.21(b)(1), 125.24(c)(1), 125.24(c)(7)(v), 181.11(a) and 183.104a(a)(3) - These sections, subsections, and statement of policy are revised to specify that initial authorization of assistance will occur when all factors of eligibility are verified unless verification is pending from a third party and the client has cooperated in the verification attempt or unless certification of cooperation is pending with the domestic relations section of the Court of Common Pleas. Initial authorization of cash assistance will not be delayed more than 30 days after application. If the applicant establishes eligibility, assistance will be authorized effective with the date that all conditions of eligibility are verified. (62 P.S. §432.19)

NOTE: The Notice of Rule Change published at 26 Pa. B. 2865 (June 15, 1996) incorrectly identified §125.74 as a section that would incorporate the requirement specified above. It has been incorporated at §181.11.

2. Sections 177.2 and 183.2 - These sections are revised to amend the definition of budget group to read "one or more related or unrelated individuals who occupy a common residence or would occupy a common residence if they were not homeless and whose needs and eligibility are considered together in determining eligibility for cash assistance under one category of assistance." This revised definition essentially copies the statutory definition of assistance group which was added to the Public Welfare Code under Act 35. (62 P.S. §402)

B. The following requirements apply to the TANF and GA cash assistance programs:

- Section 141.21(s) and (t) - These sections are added to specify that an applicant or recipient of AFDC (now TANF) or GA who has been convicted of violating section 481(a) of the Public Welfare Code, that is, has been convicted of securing or attempting to secure, or aiding or abetting or attempting to aid or abet any person in securing cash

assistance, medical assistance or Federal food stamps by means of a willfully false statement or misrepresentation, or by impersonation or by willfully failing to disclose a material fact regarding eligibility either prior to, or at the time of, or subsequent to the application for assistance, a crime commonly referred to as welfare fraud, is ineligible for cash assistance for a period of 6 months from the date of a first conviction, for a period of 12 months from the date of a second conviction, and permanently from the date of a third conviction. (62 P.S. §481(f))

C. The following requirement applies to the GA cash assistance program:

- Section 175.23(d) - This subsection is added to specify that cash assistance granted shall be reduced by amounts obtained by cashing an assistance check at a gambling casino, racetrack, bingo hall or other establishment that derives more than 50 percent of its gross revenues from gambling. (62 P.S. §434)

NOTE: The Notice of Rule Change published at 26 Pa. B. 2865 (June 15, 1996) provided an incorrect 55 Pa. Code citation (§175.24(f)) for this requirement. The citation is correct as specified above.

D. The following requirements apply to the GA cash and the GA-related MA programs:

1. Section 141.61(d)(1)(ii) - This subparagraph is revised to specify that persons eligible for GA and GA-related NMP-MA include persons who are parents residing in a two-parent household with their child who is under 13 years of age or their child under age 21 who has a verified disability. The requirement supersedes the provision of Act 49 which permitted two parents residing in a household with their child who was under age 18 to receive GA. (62 P.S. §432(3)(i)(B))
2. Section 141.61(d)(1)(iii) - This subparagraph is revised to specify that a person who has been assessed by a physician or psychologist as having a verified physical or mental disability which causes a permanent or temporary disability that precludes gainful employment must provide verification of the disability in a form prescribed by the Department and completed by a physician or psychologist. The verification of the physical or mental disability must be based on acceptable clinical and laboratory diagnostic techniques rather than a statement of symptoms by the applicant or recipient. (62 P.S. §432(3)(i)(C))
3. Section 141.61(d)(1)(iii)(F) - This subclause is added to specify that an applicant or recipient who has a verified mental or physical disability which is temporary must seek and comply with appropriate treatment as a condition of eligibility. (62 P.S. §432(3)(i)(C))

4. Sections 141.61(d)(1)(iv) and 141.71 - This subparagraph is revised to specify that persons eligible for GA and GA-related NMP-MA include the non-parental caretaker of a child under 13 years of age. Assistance will not be granted to a person under this criterion if there is another adult in the household who is capable of providing the care without GA being required. This requirement supersedes the provision of Act 49 which allowed non-parental caretakers of children under age 18 to receive GA. (62 P.S. §432(3)(i)(D))

5. Sections 141.61(d)(1)(v) and 141.71 - This subparagraph is revised to specify that a person undergoing active treatment for substance abuse in an approved drug or alcohol treatment program qualifies for GA or GA-related NMP-MA only if such treatment precludes the person from engaging in employment. The 9-month lifetime limitation remains unchanged. This requirement supersedes the provision of Act 49 which allowed a person undergoing active treatment for substance abuse to receive GA regardless of whether the treatment precluded the person from engaging in gainful employment. (62 P.S. §432(3)(i)(E))

E. The following requirements apply to the MA program:

1. Section 141.81(a)(1) - This paragraph is revised to specify that a person applying for MNO-MA must meet the standards of both financial and nonfinancial eligibility. Additional revisions are made as editorial corrections and do not reflect a change in the policy. (62 P.S. §442.1(a)(2)).

NOTE: The Notice of Rule Change published at 26 Pa.B. 2865 (June 15, 1996) provided an incorrect citation (§125.74) for this requirement. The citation is correct as specified above.

2. Section 141.81(c)(3)(ii)(C) - This subparagraph is revised to add a pregnant woman as a person who may be eligible for MNO-MA under the TC category. (62 P.S. §442.1(a)(3)(ii)(E))
3. Section 141.81(c)(3)(iv) – This subparagraph is revised to specify that a person with a disability who is receiving Social Security disability benefits, who has been referred to the Social Security Administration for a determination of eligibility for Supplemental Security Income disability benefits or who is under review for disability by the Department based upon Social Security disability criteria, may be eligible for MNO-MA under the TJ category. (62 P.S. §442.1(a)(3)(ii)(F))
4. Section 141.81(c)(3)(v) – This subparagraph is revised to specify that a person who is a custodial parent of a dependent child under age 21, a person age 59 or older, or a person who is employed 100 hours per month earning at least the minimum wage, may be eligible for MNO-MA under the TD category. (62 P.S. §442.1(a)(3)(ii)(B), (C), and (G))

5. Sections 181.1(b) and 181.12 - This section and subsection are revised to specify that in determining eligibility for retroactive MNO-MA, income received or expected to be received in a 6-month period is used, even if the person requests MA coverage for less than 6 months. The 6-month period can include both retroactive and prospective months. Medical coverage can continue as long as the need exists, but no longer than the consecutive 6-month period from which income is counted. (62 P.S. §442.1(c))

IV. PRWORA

1. Section 101.1 is revised to incorporate references to the Federal TANF program that replaced the AFDC program and to include a statement that most of the rules that were in effect under the AFDC program remain in effect under TANF.

V. Federal Legislation – 42 U.S.C. §1396a(a)(17)(D)

1. Section 181.12(c)(2) is revised to amend the cross reference to include the addition of medical and remedial expenses paid by a public program as allowable medical expense income deductions when determining eligibility for retroactive MNO-MA.

2. Sections 181.14(d)(3) and 181.14(e)(6) and (7) – These paragraphs are revised to expand allowable medical expense income deductions when needed for a determination of eligibility for MNO-MA. Individuals may qualify for MNO-MA without the deduction of medical expenses if total net countable income does not exceed the MNO-MA income limit. If the net income exceeds the limit, allowable medical expenses may be used as deductions to spend down the income that exceeds the limit. Allowable medical expenses include expenses incurred by an applicant who is liable to pay the expense. Medical expenses paid by a third party are not deductible from an individual's income. However, §1902(a)(17) of the Social Security Act (42 U.S.C. §1396a(a)(17)(D)), as clarified by HCFA, permits states to expand the definition of allowable medical expense income deductions. Therefore, these revisions allow medical and remedial expenses paid by a public program funded by a state or political subdivision on behalf of an individual as allowable medical expense income deductions. The public program may not be financed in whole or in part by Federal funds. This is the sole exception to the requirement that medical expenses paid by a third party are not permissible deductions from income.

Affected Individuals and Organizations

This regulation affects applicants and recipients of TANF, GA and MA. Providers of medical and psychological services are also affected due to the reduction or termination of compensable services under certain GA-related MA programs as well as the more stringent verification requirements imposed on persons who state that they are either temporarily or permanently disabled.

Accomplishments/Benefits

Implementation of the regulations by various NORCs has had the effect of bringing regulations into compliance with State law, reducing State costs, streamlining the GA program and ensuring that needy individuals of this Commonwealth are assisted in their efforts to become self-sufficient in accordance with legislation enacted by the General Assembly.

Fiscal Impact

Commonwealth:

The savings for the current year include \$111.178 million for Act 1994-49; \$28.136 million for Act 1995-20; and \$214.679 million for Act 1996-35. These estimates reflect prior year budget projections. This is due to an inability to separately identify the effect of changes which have been implemented in prior years.

Public Sector:

There will be no costs or savings incurred by the public sector.

Private Sector:

There will be no costs or savings incurred by the private sector.

Paperwork Requirements

Revisions to the GA disability requirements under Act 1996-35 precipitated the development of the following forms:

- PA 1663 - Employability Assessment Form
- PA 1664 - Employability Reassessment Form
- PA 1671 - Health Sustaining Medication Assessment Form
- PA 1672 - Drug and Alcohol Treatment Information Form

Effective Date

The effective date of the regulations found at §§141.21, 141.61, 141.71, 141.81, 145.63, 145.64, 166.23, 177.21, 178.11, 178.12, 178.165, 181.41, and 181.42, as amended by Act 49, when published as final rulemaking in the Pennsylvania Bulletin are retroactive to September 1, 1994. The effective date of the savings for education exemption found at §177.21, applicable to the TANF program, is retroactive to March 3, 1997.

The effective date of the regulations found at §§133.23, 141.61, 141.71, 178.11, 178.12, 181.1, 181.2, 181.41, and 181.42, as amended by Act 20, is retroactive to July 1, 1995.

The effective date of the regulations found at §§125.21, 125.24, 141.21, 141.61, 141.71, 141.81, 175.23, 177.2, 181.1, 181.11, 181.12, and 183.2 and the Statement of Policy found at §183.104a, as amended by Act 35, is retroactive to June 17, 1996.

The effective date of the regulation found at §101.1, as amended by PRWORA, is retroactive to March 3, 1997.

The effective date of the disability verification provision under §141.61(d)(iii)(B)(II) is retroactive to July 17, 1993; and the expansion of allowable medical expense income deductions found at §§181.12 and 181.14 is retroactive to February 1, 1999.

Sunset Date

There is no sunset date. The Department conducts periodic reviews of the GA Program in accordance with Section 403(e) of the Public Welfare Code. TANF and MA regulations are also reviewed through the Department's Quality Control and Corrective Action review process.

Public Comments

Although these regulations are being adopted without prior notice, interested persons are invited to submit their written comments within 30 days from the date of this publication for consideration by the Department as to whether the regulation should be revised. Such comments should be sent to the Department of Public Welfare, Edward Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, Pennsylvania 17120, telephone (717) 787-4081.

Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (Voice users).

Regulatory Review Act

Under §(5(f) of the Regulatory Review Act, the Act of June 25, 1997 (P.L. 252, No. 24) (71 P.S. §§745.1-745.15), the agency submitted a copy of this regulation with proposed rulemaking omitted on **MAY 17 2000** to the Chairmen of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of the Attorney General for review and approval pursuant to the Commonwealth Attorneys Act. In accordance with §(5(c) of the Act, this regulation was approved by the Committees on . It was approved by the Commission on

Findings:

The Department of Public Welfare finds that:

- a. Public notice of intention to adopt the administrative regulations by this Order is omitted because the regulation relates to Commonwealth grants and benefits and is unnecessary and contrary to public interest under §§204(1)(iv) and 204(3) of Act No. 240 of July 31, 1968, P.L. 769 (45 P.S. §§1204(1)(iv) and 1204(3)) and the regulations thereunder, 1 Pa. Code §§7.4(1)(iv) and 7.4(3).
- b. The adoption of this regulation in the manner provided in this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

Order:

The Department of Public Welfare, acting pursuant to the Public Welfare Code,

orders:

- a. The regulations of the Department of Public Welfare are amended to read as set forth in Annex A to this Order.
- b. The Secretary of the Department of Public Welfare shall submit this Order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as to legality and form as required by law.

- c. The Secretary of the Department of Public Welfare shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- d. This Order shall take effect upon publication in the *Pennsylvania Bulletin* as follows: The effective date of the regulations found at §§141.21, 141.61, 141.71, 141.81, 145.63, 145.64, 166.23, 177.21, 178.11, 178.12, 178.165, 181.41, and 181.42, as amended by Act 49, when published as final rulemaking in the *Pennsylvania Bulletin* are retroactive to September 1, 1994. The effective date of the savings for education exemption found at §177.21, applicable to the TANF program, is retroactive to March 3, 1997. The effective date of the regulations found at §§133.23, 141.61, 141.71, 178.11, 178.12, 181.1, 181.2, 181.41, and 181.42, as amended by Act 20, is retroactive to July 1, 1995. The effective date of the regulations found at §§125.21, 125.24, 141.21, 141.61, 141.71, 141.81, 175.23, 177.2, 181.1, 181.11, 181.12, and 183.2 and the Statement of Policy found at §183.104a, as amended by Act 35, is retroactive to June 17, 1996. The effective date of the regulation found at §101.1, as amended by PRWORA, is retroactive to March 3, 1997. The effective date of the disability verification provision under §141.61(d)(iii)(B)(II) is retroactive to July 17, 1993; and the expansion of allowable medical expense income deductions found at §§181.12 and 181.14 is retroactive to February 1, 1999.

cc: Legislative Reference Bureau

ANNEX A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

SUBPART A. ASSISTANCE POLICIES AND PROCEDURES

* * * * *

CHAPTER 101. GENERAL PROVISIONS

* * * * *

101.1. Policy.

(a) *Scope.* The policies, procedures and standards for determining eligibility, the amount of the grant and for making payments for all types of assistance administered by the Department are included in this part. The types of assistance are [Aid to Dependent Children] **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**, General Assistance and State Blind Pension. Social services in Public Assistance, medical care, including nursing home care, burial and employment are also included. **ALTHOUGH THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM REPLACES THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM (AFDC), MOST OF THE RULES AND PROCEDURES UNDER WHICH THE DEPARTMENT ADMINISTERED AFDC, INCLUDING THOSE FOR THE JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) TRAINING PROGRAM, WILL CONTINUE IN EFFECT AS PART OF THE NEW TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM. ALL REFERENCES TO AFDC FOUND WITHIN TITLE 55 OF THE PENNSYLVANIA CODE ARE TO BE READ AND CONSIDERED AS APPLICABLE TO THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM OR TO A TEMPORARY ASSISTANCE FOR NEEDY FAMILIES APPLICANT OR RECIPIENT, UNLESS DOING SO WOULD BE INCONSISTENT WITH THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES REQUIREMENTS OR WITH THIS REGULATION.**

* * * * *

(d) *Purpose of [Aid for Dependent Children (AFDC)]*

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF). [AFDC] **TANF** has the following purposes:

(1) [AFDC] **TANF** is intended to provide money for dependent children who are in need because support from the usual source, parents, is not available. The money will be provided so that these children may live in family homes with their own parents, or with certain relatives who take the place of parents. Thus, it is the purpose of the [AFDC] **TANF** program to prevent a child from being forced to be away from his own family for economic reasons alone. [AFDC] **TANF** recognizes the importance to a child of his own home and family relationships.

(2) [AFDC] **TANF** is a **TIME-LIMITED** money payment to an adult **ON BEHALF OF CHILDREN** because the program recognizes the child needs an adult to look after him. The parents are the persons who have the right and obligation to rear, care for, support and make major decisions for the child. Usually, it is a parent who applies for assistance. Whichever one applies, both share responsibility for the child, and the other parent should, if possible and advisable, have some part in the decision on going through with an application for assistance. For parents who are living together, this means a joint application. For other parents, this means clarifying the role of the absent parent in support and care of the child.

* * * * *

101.2. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

AFDC - Aid to Families with Dependent Children[.] PROGRAM,
REPLACED BY THE TANF PROGRAM EFFECTIVE MARCH 3, 1997.

* * * * *

TANF - TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

* * * * *

SUBPART B. INTAKE AND REDETERMINATION

* * * * *

CHAPTER 125. APPLICATION PROCESS

* * * * *

125.21. Policy.

* * * * *

(b) *Verification.* Conditions of eligibility, need, which includes need for special need allowances, and resource items will be verified at the application interview and prior to authorizing cash assistance and at the time of each redetermination, complete or partial, as specified in Chapter 133 (relating to redetermining eligibility).

(1) If **NECESSARY** verification is [not available,] **PENDING FROM A THIRD PARTY INCLUDING CERTIFICATION OF COOPERATION FROM THE DOMESTIC RELATIONS SECTION OF THE COURT OF COMMON PLEAS** and the client has cooperated in the verification attempt, initial authorization of cash assistance will not be delayed more than [15] **30**-calendar days from the date of receipt of [an] **A COMPLETED, SIGNED** application.

* * * * *

125.24. Procedures.

* * * * *

(c) *The application interview.* The application interview shall be held within 13-calendar days of the date the CAO receives the application. The interview will be conducted in accordance with the following principles:

(1) The facts necessary for a decision on eligibility are assembled at the application interview. The maximum lapse of time between the receipt of a completed, signed application

and authorization of the first assistance payment or other disposition of the application will be [15] **30**-calendar days. In accordance with section 432.19 of the Public Welfare Code (62 P.S. §432.19), an application will not be denied for lack of verification if the applicant has cooperated in seeking verification[.] **WHICH IS PENDING FROM A THIRD PARTY INCLUDING CERTIFICATION OF COOPERATION WITH THE DOMESTIC RELATIONS SECTION.**

* * * * *

(7) The application interview shall conform with the following:

* * * * *

(v) A decision concerning the applicant's eligibility shall be made without delay based on the verification factors and information provided by the applicant. A decision on eligibility shall be made within [15] **30**-calendar days of the receipt of an application. In accordance with section 432.19 of the Public Welfare Code (62 P.S. §432.19), assistance may not be denied for lack of verification if the applicant has cooperated in seeking verification[.] **WHICH IS PENDING FROM A THIRD PARTY INCLUDING CERTIFICATION OF COOPERATION FROM THE DOMESTIC RELATIONS SECTION.**

* * * * *

CHAPTER 133. REDETERMINING ELIGIBILITY

* * * * *

REDETERMINING ELIGIBILITY PROVISIONS FOR [AFDC/GA] **TANF/GA**

133.23. Requirements.

(a) *Reapplication.* A reapplication or complete redetermination of eligibility shall conform with the following:

* * * * *

(2) *Items subject to review.* A redetermination shall conform with the following:

* * * * *

(ii) In the redetermination of eligibility, the worker shall make a finding as to whether the client who is the payment name wants assistance to continue, what plans the client may have or be developing for self-support or self-care and when the plans may mature. This redetermination shall include at least one interview with the person who is the payment name for the budget group. If the client wants assistance continued, the worker shall redetermine those eligibility factors which are subject to change. The redetermination shall include a review of the need and resource items and verification of items subject to change:

* * * * *

(L) [Chronically needy status] **CRITERIA**
THAT ESTABLISH GA CATEGORICAL ELIGIBILITY.

* * * * *

SUBPART C. ELIGIBILITY REQUIREMENTS

* * * * *

CHAPTER 141. GENERAL ELIGIBILITY PROVISIONS

* * * * *

ELIGIBILITY PROVISIONS FOR [AFDC/GA] **TANF/GA**

141.21. Policy.

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(r) NEITHER THE INCOME ELIGIBILITY LIMITS NOR THE CASH BENEFITS FOR THREE OR MORE GA RECIPIENTS RESIDING IN THE SAME HOUSEHOLD MAY EXCEED THE LIMITS FOR A TANF BUDGET GROUP WITH THE SAME NUMBER OF RECIPIENTS. THE TERM "HOUSEHOLD" IS DEFINED AS A COMMON RESIDENCE AND DOES NOT INCLUDE SINGLE-ROOM OCCUPANCY RESIDENCES, ROOMING HOUSES, SHELTERS FOR THE HOMELESS, NONPROFIT RESIDENTIAL PROGRAMS OR PERSONAL CARE HOME FACILITIES RECEIVING CHARITABLE OR GOVERNMENT FUNDS INCLUDING FUNDS FROM FEDERAL, STATE OR LOCAL UNITS.

(s) AN APPLICANT OR RECIPIENT OF GA WHO HAS BEEN CONVICTED OF VIOLATING SECTION 481(a) OF THE PUBLIC WELFARE CODE (62 P.S. §481(a)), THAT IS, HAS BEEN CONVICTED OF SECURING OR ATTEMPTING

TO SECURE, OR AIDING OR ABETTING OR ATTEMPTING TO AID OR ABET ANY PERSON IN SECURING GA, TANF, MEDICAL ASSISTANCE OR FEDERAL FOOD STAMPS BY MEANS OF A WILLFULLY FALSE STATEMENT OR MISREPRESENTATION, OR BY IMPERSONATION OR BY WILLFULLY FAILING TO DISCLOSE A MATERIAL FACT REGARDING ELIGIBILITY EITHER PRIOR TO OR AT THE TIME OF, OR SUBSEQUENT TO THE APPLICATION FOR ASSISTANCE IS INELIGIBLE FOR GA FOR A PERIOD OF SIX MONTHS FROM THE DATE OF FIRST CONVICTION; FOR A PERIOD OF 12 MONTHS FROM THE DATE OF A SECOND CONVICTION; AND PERMANENTLY FROM THE DATE OF A THIRD CONVICTION.

(t) AN APPLICANT OR RECIPIENT OF TANF WHO HAS BEEN CONVICTED OF VIOLATING SECTION 481(a) OF THE PUBLIC WELFARE CODE (62 P.S. §481(a)), THAT IS, HAS BEEN CONVICTED OF SECURING TANF BY MEANS OF A WILLFULLY FALSE STATEMENT OR MISREPRESENTATION, OR BY IMPERSONATION OR BY WILLFULLY FAILING TO DISCLOSE A MATERIAL FACT REGARDING ELIGIBILITY EITHER PRIOR TO OR AT THE TIME OF, OR SUBSEQUENT TO THE APPLICATION FOR TANF OR GA IS INELIGIBLE FOR TANF AND GA FOR A PERIOD OF SIX MONTHS FROM THE DATE OF FIRST CONVICTION; FOR A PERIOD OF 12 MONTHS FROM THE DATE OF A SECOND CONVICTION; AND PERMANENTLY FROM THE DATE OF A THIRD CONVICTION.

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ELIGIBILITY PROVISIONS FOR GA

141.61. Policy.

(a) *Conditions of eligibility.* The following relates to eligibility for GA:

(1) A person is eligible for GA [as a chronically or transitionally needy person] under the requirements established in subsection (d) and if the appropriate eligibility conditions in the following chapters are met:

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(xii) Furthermore, eligibility for GA requires that the person be ineligible for [AFDC] TANF because of failure to meet [AFDC] TANF definitive conditions. **ANY APPLICANT OR RECIPIENT WHO DOES NOT MEET A DEFINITIVE CONDITION FOR TANF SOLELY BECAUSE OF A REFUSAL TO ESTABLISH ELIGIBILITY FOR TANF IS INELIGIBLE FOR GA.** A person meeting definitive conditions but ineligible for [AFDC] TANF because of income, resources or participation in a strike is not eligible for GA. A person who refuses without good cause to cooperate in establishing paternity or support as required in the [AFDC] TANF program is not eligible for GA.

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(xiv) **A GA CASH ASSISTANCE APPLICANT IS INELIGIBLE FOR 30 DAYS AFTER THE TERMINATION OF EMPLOYMENT IF THE APPLICANT VOLUNTARILY TERMINATES THE EMPLOYMENT WITHOUT GOOD CAUSE. GOOD CAUSE INCLUDES THE CIRCUMSTANCES BEYOND A PERSON'S CONTROL SPECIFIED AT SUBSECTION 165.52(a) (RELATING TO GOOD CAUSE).**

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(d) *Determining [chronically and transitionally needy] GA CATEGORICAL ELIGIBILITY.* An applicant for, or recipient of, GA is determined to be [either chronically or transitionally needy] **ELIGIBLE** in accordance with the following:

(1) A [chronically needy] person is eligible to receive GA for an indeterminate period due to medical, social or related circumstances. **PERSONS [which] WHO MAY QUALIFY FOR GA** are limited to the following:

(i) A child who is under age 18; or **WHO IS 18 THROUGH 20 YEARS OF AGE AND** is attending a secondary or equivalent vocational or technical school full-time and may reasonably be expected to complete the program before reaching [19] **21** years of age. Age, school enrollment and attendance shall be verified.

(ii) [A person 45 years of age or older. Age shall be verified.] **PARENTS RESIDING IN A TWO-PARENT HOUSEHOLD WITH THEIR CHILD WHO IS UNDER 13 YEARS OF AGE OR THEIR CHILD WHO IS UNDER AGE 21 AND WHO HAS A DISABILITY. THE AGE, RESIDENCE AND DISABILITY (IF APPLICABLE) OF THE CHILD SHALL BE VERIFIED. BOTH PARENTS AS WELL AS THE CHILD MUST BE INCLUDED IN THE APPLICATION. IF THE FAMILY IS INELIGIBLE UNDER THIS PROVISION, EITHER PARENT OR CHILD MAY QUALIFY UNDER ANOTHER CRITERION.**

(iii) A person who [claims that he is unable to work in a job which produces income equal to or exceeding the minimum wage because of serious physical or mental handicap] **HAS BEEN**

ASSESSED BY A PHYSICIAN OR PSYCHOLOGIST AS HAVING A TEMPORARY OR PERMANENT DISABILITY WHICH PRECLUDES HIM FROM WORKING IN ANY GAINFUL EMPLOYMENT. [shall comply with the] THE following CONDITIONS APPLY:

(A) Documentation which demonstrates the relationship between the [handicap] **DISABILITY** and the inability to work shall be provided by the client during the application interview for cash assistance or, in the case of recipients, within 30-calendar days after the date of the redetermination.

(B) **WITH THE EXCEPTION OF DOCUMENTATION PURSUANT TO SUBCLAUSE (II),** [documentation shall] **DOCUMENTATION MUST** be on a form provided by the Department and completed by a physician[,] or a [licensed] psychologist [when the CAO determines that a psychologist is the most appropriate source of documentation].

(I) The CAO's medical consultant may be used in those cases that the IMU worker is unable to establish the inability to work based on the [handicap] **DISABILITY**.

(II) **THE VERIFICATION MAY ALSO BE PROVIDED BY SOURCES INCLUDING, BUT NOT LIMITED TO, THE SOCIAL SECURITY ADMINISTRATION (SSA) INDICATING APPROVAL FOR DISABILITY BENEFITS OR ON A DISABILITY DETERMINATION OF 50 PERCENT OR GREATER MADE BY THE DEPARTMENT OF VETERANS AFFAIRS (DVA). A MEDICAL CERTIFICATION OF DISABILITY PROVIDED BY THE DEPARTMENT'S MEDICAL REVIEW TEAM (MRT) IS ALSO ACCEPTABLE DOCUMENTATION OF ILLNESS OR DISABILITY. DOCUMENTATION FROM SOURCES OTHER THAN THE SSA, DVA OR MRT IS ALSO ACCEPTABLE IF IT CLEARLY STATES THE RELATIONSHIP BETWEEN THE DISABILITY AND THE PERSON'S EMPLOYABILITY. IN ADDITION, THIS**

DOCUMENTATION MUST BE LESS THAN SIX MONTHS OLD AT THE TIME OF APPLICATION OR REDETERMINATION UNLESS THE CONDITION TO WHICH IT REFERS IS PERMANENT OR CHRONIC. THE VERIFICATION OF PHYSICAL OR MENTAL DISABILITY MUST BE BASED ON ACCEPTABLE CLINICAL AND LABORATORY DIAGNOSTIC TECHNIQUES RATHER THAN A STATEMENT OF SYMPTOMS BY THE APPLICANT OR RECIPIENT.

(C) [A person who claims a serious physical or mental handicap, but who is unable to produce documentation of the handicap within the applicable time period in clause (A), may choose one of the following options:] **AN APPLICANT OR RECIPIENT WHO CLAIMS A PHYSICAL OR MENTAL DISABILITY WHICH TEMPORARILY OR PERMANENTLY PRECLUDES HIM OR HER FROM ANY GAINFUL EMPLOYMENT BUT WHO DOES NOT HAVE THE DOCUMENTATION AT THE APPLICATION OR WITHIN 30 DAYS OF THE REDETERMINATION INTERVIEW SHALL BE DETERMINED INELIGIBLE FOR GA UNTIL SUCH DOCUMENTATION IS PRESENTED TO THE CAO. THE CAO SHALL DETERMINE ELIGIBILITY FOR THE MEDICALLY NEEDY ONLY (MNO) PROGRAM TO COVER THE COST OF THE EMPLOYABILITY ASSESSMENT ONLY FOR PERSONS WHO ALLEGE ELIGIBILITY BASED ON A PHYSICAL OR MENTAL DISABILITY. REASONABLE ACCOMMODATIONS TO ASSIST A PERSON TO SECURE DOCUMENTATION DURING THIS PERIOD SHALL BE PROVIDED TO A PERSON WHO IS PREVENTED FROM COOPERATING DUE TO A PHYSICAL OR MENTAL DISABILITY.**

[(I) The applicant or recipient shall be enrolled in the ETP and be classified as transitionally needy until documentation is provided, if the applicant is otherwise eligible for transitionally needy assistance. Awaiting verification of eligibility for chronically needy assistance based on a handicap shall be considered good cause for failure to participate in ETP activities, if the individual has cooperated in attempting to obtain

verification of the handicap. Assistance shall be authorized or continued as long as eligibility requirements are met, but no longer than 90 days. When documentation is provided which verifies that the handicap exists, the client shall have his status changed to chronically needy. When the client is determined to be chronically needy, the client is considered to have received assistance as a chronically needy recipient from the date of the initial authorization.

(II) The applicant refusing to be enrolled in ETP shall receive an application interview for the MNO program. The recipient refusing to be enrolled in the ETP shall be transferred to the MNO program. Authorization for, or transfer to, the MNO program allows the payment of medical costs for a physical or mental examination needed to document his inability to work. An applicant has 30 calendar days from the application date to obtain documentation of the claimed physical or mental handicap. Failure to produce documentation in 30 days results in a determination of ineligibility for Cash Assistance as a chronically needy person and the application will be rejected.]

(D) A PERSON WHO HAS A SERIOUS PHYSICAL OR MENTAL DISABILITY WHICH PREVENTS EMPLOYMENT AND WHICH IS DOCUMENTED IN ACCORDANCE WITH SUBPARAGRAPH (iii) OF THIS PARAGRAPH MAY BE AUTHORIZED AS GA EVEN IF HE IS UNDERGOING ACTIVE TREATMENT OR HAS UNDERGONE TREATMENT FOR SUBSTANCE ABUSE IN A DRUG OR ALCOHOL TREATMENT PROGRAM. ELIGIBILITY FOR GA ON THE BASIS OF HAVING A SERIOUS PHYSICAL OR MENTAL DISABILITY IS NOT CONTINGENT UPON PARTICIPATION IN A DRUG OR ALCOHOL TREATMENT PROGRAM AS LONG AS THE

PERSON REMAINS DISABLED AFTER THE SUBSTANCE ABUSE IS SUCCESSFULLY TREATED.

(E) A PERSON WHO HAS A DISABILITY SOLELY RELATED TO SUBSTANCE ABUSE THAT PREVENTS EMPLOYMENT AND WHICH HAS BEEN DOCUMENTED IN ACCORDANCE WITH SUBPARAGRAPH (iii) OF THIS PARAGRAPH MAY BE AUTHORIZED AS GA. ELIGIBILITY FOR GA ON THIS BASIS IS CONTINGENT UPON ACCEPTING AND PARTICIPATING IN AVAILABLE DRUG OR ALCOHOL TREATMENT SERVICES.

(F) AN APPLICANT OR RECIPIENT WHO HAS A VERIFIED PHYSICAL OR MENTAL DISABILITY WHICH IS TEMPORARY MUST SEEK APPROPRIATE TREATMENT AS A CONDITION OF ELIGIBILITY.

(iv) [A person who is personally providing care for a child under age 6 with only very brief and infrequent absences from the child, or whose presence is required in the home because of illness or incapacity of another member of the household.] **A NON-PARENTAL CARETAKER OF A CHILD UNDER 13 YEARS OF AGE OR A CARETAKER OF AN INDIVIDUAL WHO IS ILL OR DISABLED. THE CARETAKER MUST RESIDE WITH THE INDIVIDUAL FOR WHOM HE PROVIDES CARE AND HIS PRESENCE MUST BE REQUIRED. A CARETAKER'S PRESENCE IN THE HOME SHALL NOT BE CONSIDERED AS REQUIRED IF THERE IS ANOTHER PERSON IN THE HOME WHO IS ABLE TO PROVIDE THE CARE WITHOUT THE NEED FOR GA. The caretaker shall provide documentation OF THE AGE OF THE CHILD OR of the illness or [incapacity] DISABILITY of the [household member] INDIVIDUAL NEEDING CARE.**

(v) A person [with a drug or alcohol abuse problem] who is undergoing active treatment **FOR SUBSTANCE ABUSE** in a

drug or alcohol treatment program licensed or approved by the Department of Health **OR ADMINISTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT AS LONG AS SUCH TREATMENT PRECLUDES THE PERSON FROM ENGAGING IN ANY FORM OF EMPLOYMENT.** Eligibility [as chronically needy] under this [criteria] **CRITERION** is limited to a maximum of 9 months [--or 18 semimonthly assistance checks--] in the lifetime of the person regardless of whether or not treatment is continuing upon expiration of the 9-month time limit.

(vi) [A person employed 30 or more hours per week whose earned income after deductions determined under \$183.95 (relating to GA earned income deductions) is less than the family size allowance for that size of budget group under Chapter 175 (relating to allowances and benefits).] **A PREGNANT WOMAN WHOSE PREGNANCY HAS BEEN MEDICALLY VERIFIED AND WHO IS INELIGIBLE FOR TANF.**

(vii) [A person who is ineligible for UC and whose income under \$183.95 falls below the family size allowance in Chapter 175 for that size budget group, as the result of a natural disaster. Natural disaster is defined in \$141.62 (relating to definitions).] **A PERSON WHO IS A VICTIM OF DOMESTIC VIOLENCE OR ANOTHER ABUSIVE LIVING SITUATION AND IS RECEIVING PROTECTIVE SERVICES. IT IS NOT NECESSARY THAT THE SERVICE BE CONTINUOUS OR RENDERED ON A DAILY, WEEKLY OR MONTHLY BASIS. ELIGIBILITY UNDER THIS CRITERION IS LIMITED TO A MAXIMUM OF 9 MONTHS IN THE LIFETIME OF THE PERSON, REGARDLESS OF WHETHER OR NOT PROTECTIVE SERVICES ARE CONTINUING UPON EXPIRATION OF THE 9-MONTH TIME LIMIT. THE PERSON MUST VERIFY THAT HE IS RECEIVING ONE OF THE FOLLOWING PROTECTIVE SERVICES, OR IS INVOLVED IN ONE OF THE FOLLOWING ACTIVITIES:**

(A) RESIDING IN AN EMERGENCY SHELTER OR
EMERGENCY HOUSING FOR ABUSED PERSONS;

(B) RECEIVING SUPPORTIVE COUNSELING FROM
A PROFESSIONAL COUNSELING SOURCE;

(C) RECEIVING SOCIAL SERVICES TO PREVENT
FURTHER POTENTIAL ABUSE;

(D) RECEIVING SOCIAL SERVICES NECESSARY
TO ENABLE THE PERSON TO REMAIN IN HIS OWN HOME;

(E) FILING OF ASSAULT OR BATTERY OR OTHER
CHARGES WITH A LAW ENFORCEMENT AGENCY RELATED TO SEEKING PROTECTION
FROM THE ABUSER;

(F) OBTAINING A RESTRAINING ORDER OR
PEACE BOND AGAINST THE ABUSER; OR,

(G) RECEIVING SERVICES FROM ANY BRANCH OF
GOVERNMENT (INCLUDING THE COURTS OR THE POLICE) OR AGENCY MEANT TO
COUNSEL OR PROTECT THE INDIVIDUAL FROM ABUSE. INFORMATION PROVIDED
BY OR ON BEHALF OF A VICTIM OF ABUSE IS CONFIDENTIAL AND SUBJECT TO
THE REQUIREMENTS OF CHAPTER 105, SAFEGUARDING INFORMATION.

[(viii)A person who maintained full-time
employment defined as at least 30 hours per week for a verified
minimum of 48 months out of the 8 years prior to application and who
is able to provide verification that his UC benefits were exhausted
prior to his application for assistance benefits.

(ix) A person who does not qualify as chronically needy under subparagraphs (i) - (viii) and who was a GA recipient on April 8, 1982 and did not refuse a bona fide job offer or fail to comply with employment regulations in Chapter 165 remains eligible to receive GA as chronically needy subject to the following:

(A) Until December 31, 1982 if GA eligibility is not interrupted.

(B) Until the grant is terminated prior to December 31, 1982 with the exception of the person who loses employment through no fault of his own and does not meet the minimum credit week requirement for UC and who is required to reapply for GA prior to December 31, 1982 is considered to be chronically needy for GA until December 31, 1982.

(C) No person may qualify for GA under this subparagraph after December 31, 1982.]

(2) [A transitionally needy person is a person otherwise eligible who does not qualify for GA as chronically needy as defined in paragraph (1). Assistance for a transitionally needy person shall be authorized only once in any 12-month period for up to 90 days of assistance.

(i) Once authorized, assistance is not granted again during the 12-month period even though a full 90 days of assistance is not received by the transitionally needy person.

(ii) A person determined to be ineligible for a GA cash assistance grant as transitionally needy qualifies for MNO if that person is otherwise eligible for MNO. The person would not qualify for MA as categorically needy including spend-down until the person again is eligible for a cash assistance payment.] **RESERVED.**

(3) [A GA assistance unit may include members who qualify for GA as chronically needy and those who qualify as transitionally needy, such as a three-person household which includes both parents and a child under 18 years of age who is attending school. Unless otherwise eligible as chronically needy, both parents would receive GA as transitionally needy and the child would receive GA as chronically needy.] **RESERVED.**

(4) GENERAL ASSISTANCE RECIPIENTS ARE ELIGIBLE FOR THE MEDICALLY NEEDY ONLY LEVEL OF BENEFITS. IN ADDITION, THESE PERSONS RECEIVE COVERAGE FOR PRESCRIBED MEDICATIONS. GENERAL ASSISTANCE RECIPIENTS ELIGIBLE FOR FEDERALLY-FUNDED MA RECEIVE ADDITIONAL BENEFITS UNDER THE MA PROGRAM. CHILDREN UNDER AGE 21, PREGNANT WOMEN, MIGRANTS, REFUGEES ELIGIBLE FOR MA UP TO 8 MONTHS FROM DATE OF ENTRY INTO THE UNITED STATES, AS SPECIFIED IN 45 CFR §400.90, REPATRIATED NATIONALS, AND PERSONS WHO HAVE APPLIED FOR OR BEEN REFERRED TO THE SOCIAL SECURITY ADMINISTRATION FOR SOCIAL SECURITY OR SUPPLEMENTAL SECURITY INCOME DISABILITY BENEFITS QUALIFY FOR FEDERALLY-FUNDED MA.

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ELIGIBILITY PROVISIONS FOR MA FOR
THE CATEGORICALLY NEEDY

141.71. Policy.

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(c) *Money payment recipients.* The following persons will be eligible for MA services provided the recipient does not have resources such as medical insurance or governmental benefits that cover the costs of the services at MA standards:

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(2) Persons who meet the definitive conditions of [AFDC] **TANF**, GA or SBP. GA [Transitionally Needy] persons, [as defined in §141.61(d)(2) (relating to policy), are eligible for Categorically Needy MA only during the period for which they are eligible to receive a cash payment, even if the payment is not received. Transitionally needy persons] **WHO ARE NOT ELIGIBLE FOR FEDERALLY-FUNDED MA AND** who are [not] eligible to receive a cash payment are entitled to Medically Needy Only **LEVEL OF BENEFITS** if otherwise eligible. **IN ADDITION, THESE PERSONS RECEIVE COVERAGE FOR PRESCRIBED MEDICATIONS. GA-RELATED MA RECIPIENTS ELIGIBLE FOR FEDERALLY-FUNDED MA RECEIVE ADDITIONAL BENEFITS UNDER THE MA PROGRAM. CHILDREN UNDER AGE 21, PREGNANT WOMEN, MIGRANTS, REFUGEES ELIGIBLE FOR MA UP TO 8 MONTHS FROM DATE OF ENTRY INTO THE UNITED STATES, AS SPECIFIED IN 45 CFR §400.90, REPATRIATED NATIONALS, AND PERSONS WHO HAVE APPLIED FOR OR BEEN REFERRED TO THE SOCIAL SECURITY ADMINISTRATION FOR SOCIAL SECURITY OR SUPPLEMENTAL SECURITY INCOME DISABILITY BENEFITS QUALIFY FOR FEDERALLY-FUNDED MA.**

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(g) *PD (Categorically Needy NMP-GA) requirements.* All regulations and procedures in §141.61 will apply. **PERSONS WHO DO NOT RECEIVE A CASH PAYMENT AND WHO ARE NOT ELIGIBLE FOR FEDERALLY-FUNDED MA AS DESCRIBED IN §141.71(c) (2) ARE ENTITLED TO THE MEDICALLY NEEDED ONLY LEVEL OF BENEFITS IF OTHERWISE ELIGIBLE. IN ADDITION, THESE PERSONS RECEIVE COVERAGE FOR PRESCRIBED MEDICATIONS.**

**ELIGIBILITY PROVISIONS FOR MA FOR
MEDICALLY NEEDED ONLY**

141.81. [MA eligibility policy.] **ELIGIBILITY POLICY FOR MEDICALLY NEEDED ONLY.**

(a) *Conditions of eligibility.*

(1) To be eligible for **MEDICALLY NEEDED ONLY** MA, the person shall **COMPLY WITH THE FOLLOWING:**

(i) [meet] **MEET FINANCIAL AND NONFINANCIAL ELIGIBILITY STANDARDS ESTABLISHED BY THE DEPARTMENT AND APPROVED BY THE GOVERNOR AND** the appropriate conditions of eligibility set forth in the following chapters or sections:

[(1)] **(A)**Chapter 147 (relating to residence).

[(2)] **(B)**Chapter 149 (relating to citizenship and alienage).

[(3)] (C) Chapter 161 (relating to persons in institutions).

[(4)] (D) Chapters 177, 178, 179 and 181 (relating to resources; **RESOURCE PROVISIONS FOR CATEGORICALLY NMP-MA AND MNO-MA**; reserved; income provisions for categorically needy NMP-MA and MNO-MA).

[(5)] (E) Chapter 183 (relating to income).

[(6)] (F) Section 175.84 (relating to procedures).

[(7)] (G) Section 175.73(b) (relating to requirements).

[(8)] (2) **TO BE ELIGIBLE FOR MA, THE PERSON SHALL** [Supply] **SUPPLY** evidence, as required, of the **FOLLOWING** factors [peculiar to the following categories]:

- (i) Chapter 145 (relating to age).
- (ii) Dependent children (subsection (c) [(2)] (3) (ii)).
- (iii) Blind (subsection (c) [(2)] (3) (iii)).
- (iv) Permanent and total disability (subsection (c) (3) (iv)).

[(9)] (3) TO BE ELIGIBLE FOR MA, THE PERSON SHALL [Provide] PROVIDE other information as is requested by the Department (subsection (b)).

[(10)] (4) TO BE ELIGIBLE FOR MA, THE PERSON SHALL [Sign] SIGN forms.

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(c) *Other eligibility conditions and categories.* Other eligibility conditions and categories are as follows:

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(3) The categories of MA and the eligibility conditions for them are set forth as follows. A decision that the client does not meet the definitive conditions for old age, dependent children, blind or permanent and total disability must be supported in the case record.

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(ii) *Dependent Child Category (TC).* A parent will be considered incapacitated during the period institutional medical care, hospital-home care or nursing services in the home are received. The suffix "E" will be added to the category symbols, such as TCE, to identify migrant worker applicant groups with children who are eligible for emergency MA services. This category applies to the following:

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(C) PREGNANT WOMEN.

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(iv) *Permanent and Total Disability Category (TJ)*. This category applies to a person 18 years of age or older but under 65 who is permanently and totally disabled, **A PERSON WITH A DISABILITY WHO IS RECEIVING SOCIAL SECURITY DISABILITY BENEFITS WHO HAS BEEN REFERRED TO THE SOCIAL SECURITY ADMINISTRATION FOR A DETERMINATION OF ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME DISABILITY BENEFITS OR A PERSON UNDER REVIEW FOR A DISABILITY BY THE DEPARTMENT BASED UPON SOCIAL SECURITY DISABILITY CRITERIA.** For MA purposes, a person will be considered permanently and totally disabled under the following circumstances:

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(v) *General Category (TD)*. Category TD will be treated as follows:

(A) This category is financed by Commonwealth funds only. It applies to persons who do not meet the conditions for the Federally-aided categories of MA (TA, TC, TB, TD (MIGRANTS OR REFUGEES), TU or TJ) **AND MEET ONE OF THE FOLLOWING CONDITIONS:**

(I) A CUSTODIAL PARENT OF A DEPENDENT CHILD UNDER 21 YEARS OF AGE;

(II) A PERSON 59 YEARS OF AGE OR
OLDER; OR

(III) A PERSON WHO VERIFIES EMPLOYMENT
OF AT LEAST 100 HOURS PER MONTH EARNING AT LEAST THE MINIMUM WAGE.
FOR PERSONS WHOSE ELIGIBILITY IS BASED UPON THE WORK REQUIREMENT,
PAST, PRESENT, AND CONTINUING EMPLOYMENT WILL BE EVALUATED TO
DETERMINE COMPLIANCE WITH THE 100 HOURS PER MONTH REQUIREMENT. IF AN
EPISODE OF ILLNESS OR INJURY IS THE REASON FOR THE INTERRUPTION OF
WORK AND IT IS VERIFIED THAT 100 HOURS PER MONTH EMPLOYMENT WILL
RESUME SUBSEQUENT TO RECOVERY FROM THAT ILLNESS OR INJURY, THE
APPLICANT WILL BE CONSIDERED TO HAVE MET THE WORK REQUIREMENT.

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CHAPTER 145. AGE

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GA AGE PROVISIONS

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145.63. Requirements.

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(c) *Attending school or training.* The following will
constitute GA age requirements for youths attending school or
training:

(1) [The] **A** youth under age [19] **21** will be considered to have met the requirements of attending secondary school or an equivalent course of vocational training full time, if he is [carrying] **ENROLLED IN** a program of supervised education or vocational training approved by the authorities of the school district or by the Department of [Public Instruction] **EDUCATION** of the Commonwealth. The program may be part of the regular school program, or one especially arranged for the individual youth's educational or vocational needs and approved by the school authorities. A vocational training course may be a course established under section 2508.3 of the School Code (24 P.S. §25-2508.3), a program under the Economic Opportunity Act, or an organized training program under recognized sponsorship with a specified vocational training objective, for example, apprenticeships or training arrangements sponsored by business or industrial firms.

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(3) GA payment will be made for the following:

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(ii) The month the youth completes or discontinues secondary school or equivalent vocational or technical school before age [19] **21**. The date the secondary school or equivalent vocational or technical school records show the youth ended his full-time status as a student or trainee will be the date of his completion or discontinuance of secondary school or an equivalent vocational or technical school.

145.64. Procedures.

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(b) *Attending school or training.* The procedure for school or training attendance will be as follows:

(1) Certification by the school of enrollment in and attendance at a secondary school or equivalent vocational or technical school is required within the fiscal month in which the youth has his 18th birthday. After the initial certification for a youth attending a secondary or equivalent vocational or technical school, attendance will be redetermined in March, June, September and December until the youth reaches age [19] 21. **A PARTIAL** [Redetermination] **REDETERMINATION** will be made [more often] if there is any indication that he may no longer be enrolled as a full-time student.

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CHAPTER 166. EMPLOYMENT AND COMMUNITY WORK EXPERIENCE PROGRAM

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166.23. Requirements.

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(c) *Community work experience program.* Requirements for the Community Work Experience Program (CWEP) will be as follows:

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(2) *Project assignment.* The EU may refer any nonexempt member of [an AFDC] **A TANF** or GA unit [under the age of 45] to a project assignment at any time, including the following persons:

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Subpart D. DETERMINATION OF NEED AND
AMOUNT OF ASSISTANCE

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CHAPTER 175. ALLOWANCES AND BENEFITS

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ALLOWANCES AND BENEFITS PROVISIONS FOR [AFDC/GA] **TANF/GA**

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175.23. Requirements.

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(e) **GRANT REDUCTION. THE FAMILY SIZE ALLOWANCE, PLUS SPECIAL NEED ALLOWANCE, SHALL BE REDUCED BY THE AMOUNTS OBTAINED BY CASHING AN ASSISTANCE CHECK AT A GAMBLING CASINO, RACETRACK, BINGO HALL OR OTHER ESTABLISHMENT THAT DERIVES MORE THAN 50 PERCENT OF ITS GROSS REVENUES FROM GAMBLING.**

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CHAPTER 177. RESOURCES

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GENERAL RESOURCE PROVISIONS FOR [AFDC/GA] **TANF/GA**

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177.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

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Budget group - One or more **RELATED OR UNRELATED** individuals [living in the household whose needs are met through a monthly assistance payment issued under one category of assistance.] **WHO OCCUPY A COMMON RESIDENCE OR WOULD OCCUPY A COMMON RESIDENCE IF THEY WERE NOT HOMELESS AND WHOSE NEEDS ARE CONSIDERED TOGETHER IN DETERMINING ELIGIBILITY FOR CASH ASSISTANCE UNDER ONE CATEGORY OF ASSISTANCE.**

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TREATMENT OF RESOURCES

177.21. Personal Property

(a) *Applicants and recipients.* For an applicant and recipient, the following personal property is not counted in determining eligibility:

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(11) AN EDUCATIONAL SAVINGS ACCOUNT ESTABLISHED BY AN INDIVIDUAL AT A BANK OR OTHER FINANCIAL INSTITUTION TO PAY FOR TUITION, BOOKS AND INCIDENTAL EXPENSES RELATED TO ATTENDANCE AT A VOCATIONAL SCHOOL, COMMUNITY COLLEGE, COLLEGE OR UNIVERSITY. THE ACCOUNT MUST BE CLEARLY IDENTIFIED AS HAVING BEEN ESTABLISHED FOR OR RESTRICTED TO PAYMENT OF EDUCATIONAL EXPENSES.

(i) THE SAVINGS ACCOUNT, ITS OWNERSHIP, THE ACCOUNT BALANCE AND THE FACT THAT THE ACCOUNT IS RESTRICTED FOR PAYMENT OF EDUCATIONAL EXPENSES MUST BE VERIFIED BY WRITTEN DOCUMENTATION. DOCUMENTATION MAY INCLUDE, BUT IS NOT LIMITED TO, A COPY OF THE PASSBOOK OR A COPY OF THE CURRENT ACCOUNT STATEMENT FROM THE BANK OR OTHER FINANCIAL INSTITUTION.

(ii) MONIES DEPOSITED IN AN ACCOUNT PLUS INTEREST EARNED ON THE ACCOUNT SHALL BE EXEMPT IN DETERMINING ELIGIBILITY FOR GA AS LONG AS THE FUNDS REMAIN ON DEPOSIT.

(iii) MONIES WITHDRAWN TO PAY FOR EDUCATIONAL EXPENSES ARE EXEMPT. DOCUMENTATION MUST BE PROVIDED THAT VERIFIES THE EXPENSES WERE INCURRED.

(iv) MONIES WITHDRAWN FROM AN EDUCATIONAL SAVINGS ACCOUNT THAT ARE USED FOR A PURPOSE UNRELATED TO EDUCATION SHALL BE ADDED TO THE BUDGET GROUP'S RESOURCE AMOUNT AND USED TO DETERMINE ELIGIBILITY BEGINNING WITH THE DATE OF WITHDRAWAL.

(12) SAVINGS ACCOUNTS ESTABLISHED UNDER THE TUITION ACCOUNT PROGRAM AND BONDS PURCHASED UNDER THE COLLEGE SAVINGS BOND ACT (P.L. 28, NO. 11).

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CHAPTER 178. RESOURCE PROVISIONS FOR
CATEGORICALLY NMP-MA AND MNO-MA

Subchapter A. GENERAL PROVISIONS FOR MA RESOURCES
COMMON TO ALL CATEGORIES OF MA

* * * * *

CATEGORIES OF MA

178.11. Categories of NMP-MA.

NMP-MA applicants/recipients shall meet the resource requirements of the category of NMP-MA for which they are eligible. The following explains the different NMP-MA categories:

* * * * *

(4) The PC category is [an AFDC-related] **A TANF-RELATED** category and designates an NMP person who is one of the following:

(i) A person under the age of 21, regardless of school attendance, emancipation or marital status. [This includes a foster child and a person under 21 years of age who has received cash assistance as a transitionally needy GA person for the maximum or a part of the maximum 90-day period in a 12-month period under \$141.61 (relating to policy).]

* * * * *

(6) The PD category is a GA-related category and designates an NMP person who is 21 years of age or older and under 65 years of age, who meets the [financial] eligibility requirements **FOR GA** [but does not meet the PK category definition in paragraph (7),] and who chooses to receive [NMP-MA only] **ONLY MA**.

[(7) The PK category is a GA-related category and designates an NMP person 21 years of age or older and under 45 years of age, who is eligible for cash assistance as a transitionally needy GA person under \$141.61, but chooses to receive only NMP-MA. The maximum period for receipt of either transitionally needy GA cash assistance or NMP-MA in the PK category or any combination of the two is 90 days within a 12-month period.]

178.12. Categories of MNO-MA.

MNO-MA applicants/recipients shall meet the resource requirements of the category of MNO-MA for which they are eligible. The following explains the different MNO-MA categories:

* * * * *

(7) [The TK category is a GA-related category and designates an MNO person 21 years of age or older and under 45 years of age, who has received cash assistance or categorically needy NMP-MA as a transitionally needy person under \$141.61 (relating to policy). The TK category is used for the remainder of the 12-month period that begins with the first receipt of GA cash assistance or NMP-MA as a transitionally needy person.] **RESERVED**.

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Subchapter C. [AFDC-RELATED] TANF-RELATED AND GA-RELATED CATEGORIES
OF MA

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ADDITIONAL RESOURCE EXCLUSIONS FOR GA CATEGORIES OF MA

178.165. EDUCATIONAL SAVINGS ACCOUNTS.

(a) FOR GA CATEGORIES OF MA, AN EDUCATIONAL SAVINGS ACCOUNT ESTABLISHED BY AN INDIVIDUAL AT A BANK OR OTHER FINANCIAL INSTITUTION TO PAY FOR TUITION, BOOKS AND INCIDENTAL EXPENSES RELATED TO ATTENDANCE AT A VOCATIONAL SCHOOL, COMMUNITY COLLEGE, COLLEGE OR UNIVERSITY IS NOT COUNTED IN DETERMINING ELIGIBILITY.

(1) THE ACCOUNT MUST BE CLEARLY IDENTIFIED AS HAVING BEEN ESTABLISHED FOR OR RESTRICTED TO PAYMENT OF EDUCATIONAL EXPENSES.

(2) THE SAVINGS ACCOUNT, ITS OWNERSHIP, THE ACCOUNT BALANCE AND THE FACT THAT THE ACCOUNT IS RESTRICTED FOR PAYMENT OF EDUCATIONAL EXPENSES MUST BE VERIFIED BY WRITTEN DOCUMENTATION. DOCUMENTATION MAY INCLUDE, BUT IS NOT LIMITED TO, A COPY OF THE PASSEBOOK OR A COPY OF A CURRENT ACCOUNT STATEMENT FROM THE BANK OR OTHER FINANCIAL INSTITUTION.

(3) MONIES DEPOSITED IN AN ACCOUNT PLUS INTEREST EARNED ON THE ACCOUNT SHALL BE EXEMPT IN DETERMINING ELIGIBILITY FOR GA AS LONG AS THE FUNDS REMAIN ON DEPOSIT.

(4) MONIES WITHDRAWN TO PAY FOR EDUCATIONAL EXPENSES ARE EXEMPT. DOCUMENTATION MUST BE PROVIDED THAT VERIFIES THE EXPENSES WERE INCURRED.

(5) MONIES WITHDRAWN FROM AN EDUCATIONAL SAVINGS ACCOUNT THAT ARE USED FOR A PURPOSE UNRELATED TO EDUCATION SHALL BE ADDED TO THE BUDGET GROUP'S RESOURCE AMOUNT AND USED TO DETERMINE ELIGIBILITY BEGINNING WITH THE DATE OF WITHDRAWAL.

(b) FOR GA CATEGORIES OF MA, SAVINGS ACCOUNTS ESTABLISHED UNDER THE TUITION ACCOUNT PROGRAM AND BONDS PURCHASED UNDER THE COLLEGE SAVINGS BOND ACT (P.L. 28, NO. 11) ARE NOT COUNTED IN DETERMINING ELIGIBILITY.

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CHAPTER 181. INCOME PROVISIONS FOR
CATEGORICALLY NEEDY NMP-MA AND MNO-MA

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Subchapter A. GENERAL PROVISIONS FOR
MA INCOME COMMON TO ALL CATEGORIES OF MA

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GENERAL PROVISIONS FOR MA INCOME

181.1. General policy on MA income common to all categories of MA.

* * * * *

(b) In determining income eligibility for MNO-MA, the total amount of income available to the applicants/recipients in a consecutive 6-calendar month period is used. In determining income eligibility for retroactive eligibility coverage for MNO-MA, the total

amount of income available to the applicants/recipients in [each calendar month] **THE COMBINED RETROACTIVE AND PROSPECTIVE PERIOD, A CONSECUTIVE 6-CALENDAR MONTH PERIOD**, is used. **THE COMBINED PERIOD CAN BE LESS THAN 6 MONTHS ONLY IF THE APPLICANT/RECIPIENT IS DECEASED.**

* * * * *

(d) As a condition of eligibility for MA, an applicant/recipient shall take necessary steps to obtain and make available potential sources of income available to him, such as, but not limited to, benefits under retirement, unemployment compensation, workers compensation, State or county retirement and disability benefits, veterans benefits, union pensions and employer's pensions and annuities.

(1) An applicant, except a PD [/PK,] **OR TD** [or TK] applicant--see §§181.41 and 181.42 (relating to categories of NMP-MA; and categories of MNO-MA)--or a recipient who, without good cause, fails to cooperate in an effort to establish eligibility for SSI, Retirement, Survivors and Disability Insurance (RSDI), or another potential benefit is ineligible for MA until the applicant complies with the cooperation requirement.

(2) A PD [, **PK,**] **OR TD** [or TK] applicant--see §§181.41 and 181.42--who, without good cause, fails to cooperate in establishing eligibility for a potential benefit is ineligible for MA for a minimum of 60 calendar days. Ineligibility for MA continues after the minimum of 60 calendar days until the applicant complies with the cooperation requirement.

* * * * *

181.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

[PK - Nonmoney Payment - Transitionally Needy.]

* * * * *

[TK - Medically Needy Only - Transitionally Needy.]

* * * * *

CONTINUING AND RETROACTIVE ELIGIBILITY PROVISIONS
FOR ALL CATEGORIES OF MA

181.11. Continuing eligibility.

(a) Eligibility for continuing MA benefits begins with the date eligibility is established or the date of application, if the applicant/recipient is otherwise eligible. If the applicant is ineligible in the month of application, eligibility begins with the first day of the following month if the applicant is eligible beginning from the first day of that month.

(1) AUTHORIZATION OF MA BENEFITS IN THE GA-RELATED NMP CATEGORY BEGINS WHEN ALL ELIGIBILITY FACTORS ARE VERIFIED, VERIFICATION IS RECEIVED FROM A THIRD PARTY OR THE CLIENT HAS COOPERATED IN THE VERIFICATION ATTEMPT AND THE APPLICANT/RECIPIENT IS OTHERWISE ELIGIBLE.

* * * * *

181.12. Retroactive eligibility.

(a) The earliest possible date for retroactive MA benefits to begin is the first day of the third month preceding the month of application.

(1) The period of eligibility for retroactive MA benefits **UNDER NMP-MA** begins with the first day of the month **IN THE RETROACTIVE PERIOD** in which the first medical service was incurred, if the applicant was otherwise eligible during that month.

(2) **THE PERIOD OF ELIGIBILITY FOR RETROACTIVE MA BENEFITS UNDER MNO-MA BEGINS WITH THE FIRST DAY OF THE MONTH IN THE RETROACTIVE PERIOD IN WHICH THE FIRST MEDICAL SERVICE WAS INCURRED, IF THE APPLICANT WAS OTHERWISE ELIGIBLE DURING THAT MONTH.**

* * * * *

(c) For MNO-MA categories, income eligibility for retroactive MA benefits exists if one of the following applies:

(1) The applicant's/recipient's countable [monthly] net income **IN THE COMBINED RETROACTIVE/PROSPECTIVE PERIOD, LESS MEDICAL EXPENSES** is equal to, or less than, the appropriate MNO-MA [monthly] **6-MONTH PERIOD** income limits in Appendix [G] F.

(2) The applicant's/recipient's countable [monthly] net income **IN THE COMBINED RETROACTIVE/PROSPECTIVE PERIOD**, less medical expenses is equal to, or less than, the appropriate MNO-MA [monthly] **6-MONTH PERIOD** income limits in Appendix [G] F. Unpaid

medical expenses that are not subject to payment by a third-party, which remain the legal obligation of the applicant/recipient, and are not to be paid for under the MA Program once MA is authorized and paid medical expenses, are deducted from the countable [monthly] net income **IN THE COMBINED RETROACTIVE/PROSPECTIVE PERIOD** as provided under §181.14(e)(1)-[(5)](6) (relating to eligibility under MNO-MA spend-down). This includes medical expenses incurred before the retroactive period.

* * * * *

181.14. Eligibility under MNO-MA spend-down.

* * * * *

(d) Deductible medical expenses include:

* * * * *

(3) MEDICAL AND REMEDIAL EXPENSES PAID BY A PUBLIC PROGRAM IF:

(i) THE PUBLIC PROGRAM IS NOT FINANCED IN WHOLE OR IN PART BY FEDERAL FUNDS,

(ii) THE EXPENSES ARE WHOLLY FINANCED BY THE STATE OR A SUBDIVISION OF THE STATE, FOR EXAMPLE, COUNTY OR MUNICIPALITY.

(iii) THE EXPENSES HAVE BEEN PAID IN THE MONTH OF APPLICATION, OR ANY MONTH IN THE RETROACTIVE PERIOD, OR A COMBINATION OF BOTH, FOR WHICH THE INDIVIDUAL IS APPLYING,

(iv) **THE EXPENSES HAVE NOT BEEN PREVIOUSLY USED AS A DEDUCTION IN THE DETERMINATION OF ELIGIBILITY FOR A PRIOR AUTHORIZATION OF MA.**

(e) Medical expenses meeting the requirements in subsection (d) are deducted from the countable net income in the following order:

* * * * *

(6) **MEDICAL AND REMEDIAL EXPENSES PAID BY A PUBLIC PROGRAM MEETING THE REQUIREMENTS IN SUBSECTION (d) (3).**

[(6)] (7) * * *

* * * * *

CATEGORIES OF MA

181.41. Categories of NMP-MA.

An NMP-MA applicant/recipient shall meet the income requirements of the category of NMP-MA for which they are eligible. The following explains the different NMP-MA categories:

* * * * *

(4) The PC category is [an AFDC-related] **A TANF-RELATED** category and designates an NMP person who is one of the following:

(i) A person under 21 years of age, regardless of school attendance, emancipation or marital status. [This includes a foster child and a person under 21 years of age who has received cash assistance as a transitionally needy GA person for the maximum, or a part of the maximum, 90-day period in a 12-month period under \$141.61 (relating to policy).]

* * * * *

(6) The PD category is a GA-related category and designates an NMP person who is 21 years of age or older and under 65 years of age, who meets the [financial] GA eligibility requirements [but does not meet the PK category definition in paragraph (7),] and who chooses to receive only NMP-MA.

[(7) The PK category is a GA-related category and designates an NMP person 21 years of age or older and under 45 years of age, who is eligible for cash assistance as a transitionally needy GA person under \$141.61, but chooses to receive only NMP-MA. The maximum period for receipt of either transitionally needy GA cash assistance or NMP-MA in the PK category or a combination of the two is 90 days within a 12-month period.]

181.42. Categories of MNO-MA.

An MNO-MA applicant/recipient shall meet the income requirements of the category of MNO-MA for which they are eligible. The following explains the different MNO-MA categories:

* * * * *

[(8) The TK category is a GA-related category and designates an MNO person 21 years of age or older and under 45 years of age, who has received cash assistance or categorically needy NMP-MA as a transitionally needy person under \$141.61 (relating to policy). The TK category is used for the remainder of the 12-month period that begins with the first receipt of GA cash assistance or NMP-MA as a transitionally needy person.]

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CHAPTER 183. INCOME

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INCOME [POLICY] PROVISIONS FOR [AFDC/GA] TANF/GA

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183.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Budget group - One or more **RELATED OR UNRELATED** individuals [living in the household whose needs are met through a monthly assistance payment issued under one category of assistance.] **WHO OCCUPY A COMMON RESIDENCE OR WOULD OCCUPY A COMMON RESIDENCE IF THEY WERE NOT HOMELESS AND WHOSE NEEDS AND ELIGIBILITY ARE CONSIDERED TOGETHER IN DETERMINING ELIGIBILITY FOR CASH ASSISTANCE UNDER ONE CATEGORY OF ASSISTANCE.**

* * * * *

MONTHLY ASSISTANCE PAYMENT DETERMINATION

* * * * *

183.104a. Additions to or deletions from a budget group—statement of policy.

* * * * *

(a) *Cash assistance.*

* * * * *

(3) In addition to removing persons promptly in accordance with established deadlines, the CAO shall ensure that persons are authorized initially or added to existing budget groups as quickly as possible. Consistent with the requirements of Chapters 125 and 133 (relating to the application process; and redetermining eligibility), a person shall receive eligibility determinations no later than [15] 30 days from the date of receipt of a completed, signed Common Application Form (CAF). The procedures to be followed when an applicant requests removal from an existing budget group and authorization of assistance in his own name; or from a person who wishes to add someone to his budget group are as follows:

* * * * *

PLEASE RETURN TO:
 INDEPENDENT REGULATORY REVIEW COMMISSION
 14TH FLOOR, HARRISTOWN II
 TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
 REGULATORY REVIEW ACT

RECEIVED

2000 MAY 17 AM 11:02

I.D. NUMBER: 14-467

SUBJECT: General Provisions; Application Process; Redetermining Eligibility; General Eligibility Provisions; Age; Employment and Community Work Experience Program; Allowance & Benefits; Resources; Resource Provisions for Categorically Needy NMP-MA & MNO-MA; Income Provisions for Categorically Needy NMP-MA & MNO-MA

AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- X Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
5-17-00	<i>[Signature]</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
5-17-00	<i>L. Burris</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
5-17-00	<i>Debbie Eaton</i>	
5-17-00	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
5-17	<i>J. Vallancourt</i>	ATTORNEY GENERAL
5-17	<i>Mary Mummert</i>	
		LEGISLATIVE REFERENCE BUREAU