

# Regulatory Analysis Form

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(1) Agency  
Department of Public Welfare/Office of Income Maintenance/  
Bureau of Policy/Division of Welfare Reform Initiatives

2003 JUN 23 AM 11:34

INDUSTRIAL DEVELOPMENT  
REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

IRRC Number: 2206

(3) Short Title

Lump Sum Payments

(4) PA Code Cite

Chapter 183, Income

(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  
Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No  
Yes: By the Attorney General  
Yes: By the Governor

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

This regulation amends 55 Pa. Code Chapter 183, Income, §183.105(4), by revising the way lump sum income is treated. Lump sum payments will be considered income only in the month of receipt and as a resource in subsequent months.

(9) State the statutory authority for the regulation and any relevant State or federal court decisions.

The statutory authority is §§ 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)).

### 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.

Not applicable.

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

This regulation promotes the purposes of Pennsylvania's Temporary Assistance for Needy Families (TANF) program by eliminating an extended period of ineligibility caused by the receipt of a lump sum payment. Individuals and families who receive TANF or General Assistance (GA) will have greater discretion to use these funds to strengthen their financial situation, improve their general standard of living and propel them toward greater self-sufficiency.

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

Needy individuals who receive a lump sum payment may become or remain ineligible for cash assistance for an extended time if the regulation was not changed. The existing regulation prescribes definite periods of ineligibility for needy individuals who receive a lump sum payment.

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

Cash assistance recipients who receive lump sum payments including, but not limited to, payments such as personal injury awards, delayed benefits, inheritances and the like, will no longer be subject to an extended period of ineligibility based on the amount of the lump sum payment. Annually, approximately 135 GA clients and 146 TANF clients will benefit from 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.)

No one will be adversely affected.

(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.)

Any TANF or GA applicant or recipient of lump sum payments must comply with the regulation. Approximately 135 GA clients and 146 TANF clients will be required to comply with this 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.

A 30-day public comment period followed the publication of the proposed regulation at 31 Pa. B. 4172 (August 4, 2001). Comments were received from Community Legal Services, Inc. in Philadelphia.

In addition, copies of the TANF State Plan, as published at 27 Pa. B. 342 (January 18, 1997), 29 Pa. B. 5658 (October 30, 1999) and 32 Pa. B. 6401 (December 28, 2002) were released to various non-profit and State and local government agencies. Informational meetings on the TANF State Plan were held in 1997 and 1999 with county children and youth administrators, drug and alcohol agencies, United Way of Pennsylvania, the Income Maintenance Advisory Committee, and the Pennsylvania Association of Human Service Administrators.

(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.

There will be no costs or savings to the regulated communities.

**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 to 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.

M. E. Penn 4/24/03

## 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
<b>SAVINGS:</b>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Savings</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>COSTS:</b>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$360	\$360	\$360	\$360	\$360	\$360
<b>Total Costs</b>	<b>\$360</b>	<b>\$360</b>	<b>\$360</b>	<b>\$360</b>	<b>\$360</b>	<b>\$360</b>
<b>REVENUE LOSSES:</b>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Revenue Losses</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The above estimate represents an additional 13 months of eligibility for 135 General Assistance (GA) clients at an average monthly cost of \$205 per client. The estimate assumes that clients will spend down the resource limit in one month.

Not included above is \$0.362 million in Federal funds for 146 clients in the Temporary Assistance for Needy Families (TANF) program.

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*Handwritten signature and date: 2-12-03*

### 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	\$311,394	\$292,301	\$271,774	\$301,460

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

The change in lump sum policy is consistent with DPW's overall goal of welfare reform, which is to design programs that promote and encourage self-sufficiency. The regulation will not affect any client adversely.

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

Not applicable. No nonregulatory alternatives were considered.

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

Not applicable. No alternative regulatory schemes were considered.

### 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.

No.

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

With the enactment of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on August 22, 1996, states have the freedom to design and operate cash assistance programs within broad parameters established by the Federal government. States must implement certain prohibitions as provided by the law; however, states have the freedom to continue the program as it was prior to PRWORA or to implement changes tailored to the needs of the people they serve. Because PRWORA had no mandatory provision regarding lump sum payments, some states elected to treat a lump sum payment as it was handled under the former AFDC program, while other states developed policies similar to this final-form rulemaking. The revised lump sum payment provision will simplify and streamline the eligibility process.

The specific requirements of this regulation should have no effect on Pennsylvania's "competitive" standing with other states in the area of welfare reform. These particular requirements are not "welfare magnet" enticements that may cause a TANF or GA applicant or recipient to leave a home state and settle in Pennsylvania.

(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. This regulation will not affect existing or proposed regulations of the Department or other State agencies.

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

No. The Department does not intend to schedule public hearings or information meetings.

### 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.

The regulation will not change existing reporting requirements; however, it will result in a moderate decrease in record keeping and other paperwork requirements associated with the eligibility process.

(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.

Special provisions have not been developed to meet the particular needs of affected groups or individuals.

(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 regulation will become effective upon publication in the Pennsylvania Bulletin as final-form rulemaking.

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

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



**LIST OF COMMENTATORS ON PROPOSED REGULATIONS**

**REGULATIONS TITLE: Income**

**PUBLISHED IN PENNSYLVANIA BULLETIN,  
VOLUME \_31\_, NUMBER \_31\_ PAGE NO. \_4172\_  
#14-471**

**DATE: August 4, 2001**

**COMMENT DEADLINE: September 5, 2001**

- |   |
|---|
| <p>1. Amy Hirsch<br/>Supervising Attorney<br/>Community Legal Services<br/>Law Center North Central<br/>3638 North Broad Street<br/>Philadelphia PA 19140</p> <p>Peter Zurflieh, Esquire<br/>Community Justice Project<br/>Law Center North Central<br/>3638 North Broad Street<br/>Philadelphia PA 19140</p> |
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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

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2003 JUN 23 AM 11:34  
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REVIEW COMMISSION

# 2206

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF PUBLIC WELFARE (Agency)</p> <p>LEGAL COUNSEL: <u>Jean E. Graybill</u></p> <p>DOCUMENT/FISCAL NOTE NO. <u>14-471</u> (DPW-OIM-08-00-01)</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Scott B. Rudman</u></p> <p>TITLE: <u>SECRETARY OF PUBLIC WELFARE</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>By: <u>[Signature]</u></p> <p><u>5/22/03</u> Date of Approval <i>Executive</i> (Deputy General Counsel) (<del>Chief Counsel, Independent Agency</del>) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF FINAL RULEMAKING  
DEPARTMENT OF PUBLIC WELFARE  
OFFICE OF INCOME MAINTENANCE  
[55 Pa. Code Chapter 183]  
Income

**STATUTORY AUTHORITY**

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

Notice of proposed rulemaking was published at 31 Pa. B. 4172 (August 4, 2001).

**PURPOSE**

The purpose of this regulation is to codify provisions in 55 Pa.Code Chapter 183 (relating to income) that are consistent with Section VI(A)(7) of the Temporary Assistance for Needy Families (TANF) State Plan published at 32 Pa. B. 6401 (December 28, 2002). Section VI(A)(7) (relating to determining eligibility) provides that lump sum income is counted as income only in the month of receipt and as a resource in the following months. For consistency between cash assistance programs, this change also affects the Commonwealth's General Assistance (GA) program.

### **NEED FOR REGULATION**

The intent of both Federal and State welfare reform legislation is to establish requirements that promote personal responsibility, work and self-sufficiency. Under current regulation, which is based on Federal requirements of the former Aid to Families with Dependent Children program, families that receive sizeable lump sum payments are often ineligible for cash assistance thereafter for extended periods of time. The prevailing opinion when this regulation was promulgated was that lump sum income should be used for basic living needs during the period of ineligibility. Federal welfare reform legislation gave states the flexibility to design and operate cash assistance programs that are tailored to meet the needs of the people they serve. This regulation reflects the premise of personal responsibility and allows families to decide how best to use available funds. For example, the lump sum payment may be used to meet current or past due household expenses or to pay for such needed items as reliable transportation to work, start-up capital for self-employment endeavors or better housing.

Under the final regulation, families that receive a lump sum payment in excess of their monthly assistance payment will be ineligible for cash assistance in the month of receipt but may be eligible the following month as long as any lump sum remaining is less than the appropriate resource limit. In situations where the lump sum exceeds the family's monthly assistance payment but does not exceed the resource limit, cash assistance is not discontinued but, instead, suspended for one month.

### **AFFECTED INDIVIDUALS, GROUPS AND ORGANIZATIONS**

This regulation affects applicants for and recipients of TANF and General Assistance (GA) cash assistance who receive lump sum payments.

### **ACCOMPLISHMENTS AND BENEFITS**

This regulation affords families the opportunity to use lump sum payments in the manner that they determine is most beneficial to their circumstances. Under the former lump sum policy, the prescribed period of ineligibility, based on the amount of the lump sum received, left some families with no alternative but to use the lump sum payment to meet basic living needs. This regulation is premised on the principle of personal responsibility and the belief that self-determination will lead to self-sufficiency. Families may use the lump sum payment to purchase a reliable vehicle, find and maintain better housing, invest in a business opportunity or otherwise improve their standard of living without fear of losing their cash assistance benefits for prolonged periods of time.

### **SUMMARY OF PUBLIC COMMENT AND CHANGES**

Written comments, suggestions and objections were solicited within a 30-day comment period after publication of the proposed regulation. The Department received two (2) sets of comments: one from legal services attorneys and the other from the

Independent Regulatory Review Commission (IRRC). In addition to suggestions for constructive revisions to the regulation, the legal services attorneys expressed strong support for this regulation.

The Department has carefully reviewed and considered each suggestion and comment and thanks the organizations that commented on the proposed regulation. The following is a summary of the written comments received during the public comment period and the Department's responses:

1. Definitions. (§ 183.2)

**COMMENT:** Since lump sum income is not defined in § 183.2 (relating to definitions) or in the body of the regulation, one commentator expressed two concerns. The first concern is that it is unclear what would specifically be considered lump sum income. This concern generated the following questions: 1) If a person receives an annuity one month of a year, is that considered lump sum income for the month of receipt or a resource? 2) Does lump sum income "occur" at actual receipt of the income or the deemed receipt of the income? and 3) Could multiple disbursements of a single amount be treated as lump sum income? A further concern is that it is not clear how the regulation will be applied to income. The commentator asked how an insurance

payment (which is lump sum income as per the preamble in the notice of proposed rulemaking) is distinguished from an insurance reimbursement. Finally, the commentator questioned how an inheritance with limitations on spending affects a person's eligibility.

**RESPONSE:** The Department does not define lump sum income because those words are used with the dictionary meaning. (See *Pennsylvania Code & Bulletin Style Manual*, § 1.7(b) – Definitions.).

In response to the first question, an annuity received in only one month of a year is lump sum income in the month of receipt. Any portion remaining is considered a resource in subsequent months.

In response to question #2, lump sum income is considered available in the month it is received by a member of the budget group. Lump sum income that is deemed available to a budget group from certain non-assistance household members is deemed available in the month it is received by the non-assistance member.

In response to question #3, each disbursement of multiple disbursements from a single source may be considered lump sum income. The type of payment determines whether it is considered (and treated) as lump sum income. For example, an individual may receive a non-recurring personal injury award of \$75,000, which is paid in 3 installments of \$25,000. Each payment is considered and treated as lump sum income of \$25,000 in the month it is received.

In response to the commentator's further question regarding how an insurance payment is distinguished from an insurance reimbursement, the answer is that there is no need to distinguish between the two because they are treated in the same manner. The Department allows deductions from the lump sum payment for expenses related to receipt of the payment. For example, a deduction will be made from an insurance personal injury settlement for medical expenses related to the injury and costs of litigation, including attorney's fees in accordance with 55 Pa.Code §§ 183.98(1)-(2) (relating to unearned income and lump sum income deductions). Allowable deductions also include the replacement cost of real or personal property that is part of a damage award or insurance settlement. For example, a recipient receives an insurance settlement for fire damage to his property. In determining countable lump sum income, the Department will deduct the replacement cost of the damaged property in accordance with 55 Pa.Code § 183.98(3) (relating to unearned income and lump sum income deductions). Generally in these cases, this deduction reduces the countable amount of the settlement to a zero dollar amount.

Finally, in response to the commentator's question regarding treatment of an "inheritance with limitations," the Department will review such cases individually to determine the availability of the lump sum income. An inheritance with limitations will be counted as income to the extent it is available for basic living needs.



2. Deductions from a lump sum payment. (§ 183.105(4)(i))

**COMMENT:** As proposed, the regulation in § 183.105(4)(i) provides that lump sum income deductions are applied as specified in §§ 183.91 (relating to LRR, parent of a TANF minor parent and stepparent deductions), 183.93 (relating to sponsor deductions), 183.94 (relating to eligibility for TANF earned income deductions), 183.95 (relating to GA earned income deductions) and 183.98(1)–(3) (relating to unearned income and lump sum deductions). Commentators suggested that this sentence in § 183.105(4)(i) is confusing because most of the regulations that are cross-referenced in this subparagraph do not mention “lump sum income deductions.” One commentator stated that if the intent is to apply the income deductions outlined in those regulations to lump sum income, then the last sentence in § 183.105(4)(i) should be revised as follows: “The income deductions specified in §§ 183.91, 183.92, 183.93, 183.94, 183.95 and 183.98 are applied to the lump sum.”

Commentators also questioned why § 183.105(4)(i) did not include a reference to § 183.92 (relating to LRR residing elsewhere--GA). Finally, commentators questioned why the reference to § 183.98 is limited to paragraphs (1)–(3) when the entire section, including paragraphs (4)–(7), relates to unearned income and lump sum income deductions.

**RESPONSE:**The Department agrees that the commentators' suggested revisions to § 183.105(4)(i) would make the regulation clearer. Accordingly, the Department has revised § 183.105(4)(i) (redesignated as § 183.105(4)(ii)) to clarify that income deductions, as specified in §§ 183.91, 183.92, 183.93, 183.94, 183.95 and 183.98, are applied to the lump sum payment.

3. Sponsors of aliens. (§ 183.105(4)(v))

**COMMENT:** One commentator claimed that this subparagraph is confusing and suggested the following revision: "Any portion of the lump sum retained by the sponsor of an alien subsequent to the month of receipt is a resource to the alien in subsequent months, provided the alien entered into the United States within 3 years prior to the month in which the resource would be counted. Once the alien has been in the United States for 3 years, income and resources of the sponsor are no longer deemed to the alien."

**RESPONSE:**The Department agrees and has revised § 183.105(4)(v) (redesignated as § 183.105(4)(vi)) to clarify that the portion of the lump sum payment retained by a sponsor after the month of receipt is considered a resource to the alien only if the alien entered the United States within 3 years prior to the month in which the payment is counted. Section 183.105(4)(i) is also revised to clarify that the requirement to deem lump sum income from a sponsor to an alien is subject to the same time frames.

4. Implementation procedures.

**COMMENT:** One commentator suggested that the Department clarify in the regulation that individuals determined ineligible for cash assistance under the old lump sum rules may apply for and receive cash assistance, if otherwise eligible, without waiting for the period of ineligibility to expire. This commentator suggested the Department add the following subparagraph to the regulation: “§ 183.105(4)(viii). An individual who has previously been found ineligible due to receipt of a lump sum may reapply at any point, and may receive benefits if the remaining amount of the lump sum does not exceed the resource limit and if the individual is otherwise eligible.”

The same commentator urged the Department to notify affected individuals of the change in lump sum regulation and that they may reapply for cash assistance benefits. The commentator is concerned that these individuals, who can be identified through the Department’s computer files, will have no way of knowing that their period of ineligibility for cash assistance is no longer in effect. IRRC asked whether family groups who are ineligible under existing regulation will be notified that they may be eligible under the new regulation and, if so, how.

**RESPONSE:** The Department agrees that individuals determined ineligible under the previous lump sum rule may qualify for cash assistance under this regulation without waiting for any period of ineligibility resulting from the old rule to expire. The Department does not agree that a regulation is needed to achieve this result. Any individual can reapply for assistance at any time. Effective upon publication, this regulation will apply to all applicants and recipients, including those previously ineligible due to receipt of a lump sum.

The Department will notify individuals affected by this change in the lump sum rule. Data indicates the average period of ineligibility due to receipt of a lump sum is 14 months. The Department will contact those individuals whose cash assistance was closed due to receipt of a lump sum within 18 months prior to the effective date of this regulation. The notice will inform those individuals of the effect of this change in regulation and remind them that they can reapply for cash assistance.

Many of the individuals whose cases were closed because of the old lump sum rule are also receiving monthly benefits from the same source that provided the lump sum, e.g., Social Security benefits, and currently have income in excess of the limits for cash assistance. Of the other individuals whose cash assistance was closed because of lump sum income, many are currently receiving Medicaid or Food Stamps and are in regular contact with a CAO. They will be reviewed for cash eligibility.

## **ADDITIONAL REVISIONS**

The following is a discussion of additional revisions to Annex A which the Department made as a result of its own internal review in preparing the final regulation:

1. 55 Pa. Code § 183.105(4). The Department revised § 183.105(4) to clarify that a lump sum payment is treated as income in the month of receipt and a resource in subsequent months.

2. 55 Pa. Code § 183.105(4)(ii). The Department revised § 183.105(4)(ii) to provide that income deductions as specified in §§ 183.91--183.95 and 183.98 are applied to a lump sum payment. This provision was located in § 183.105(4)(i) in proposed rulemaking.

3. 55 Pa. Code § 183.105(4)(iii). The Department revised § 183.105(4)(iii) to add clauses (A)--(C) that describe how a lump sum payment affects eligibility and payment amount. For example, a lump sum payment may result in a grant reduction in the corresponding payment month, a temporary suspension of cash benefits or a termination of cash benefits.

4. 55 Pa. Code § 183.105(4)(iv)--(vi). The provisions of these subparagraphs are renumbered from subparagraphs (iii)--(v), respectively, in proposed rulemaking.

**FISCAL IMPACT**

**PUBLIC SECTOR:**

a. **The Commonwealth:** The State will incur an estimated annual cost of \$360,000. This estimate represents an additional 13 months of eligibility for 135 GA clients at an average monthly cost of \$205 per client. The estimate assumes that clients will spend down the resource limit in one month.

b. **Political Subdivisions:** No other government entity will incur any costs or realize any savings. Since TANF is a block grant, there is no change in Federal expenditures.

**PRIVATE SECTOR:** No private sector entity will incur any costs or realize any savings.

**GENERAL PUBLIC:** The general public will not incur any costs or realize any savings.

**PAPERWORK REQUIREMENTS**

This regulation will moderately decrease the paperwork requirements associated with the lump sum eligibility process. The calculation of ineligibility in the month of receipt of the lump sum is simpler. There is no longer a need to determine a period of ineligibility.

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**EFFECTIVE DATE**

This regulation is effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

**SUNSET DATE**

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

**REGULATORY REVIEW ACT**

Under § 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on JUN 23 2003 the Department submitted a copy of this regulation to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In compliance with the Act, the Department also provided the Committees and the IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form regulation, the Department reviewed and considered all comments received from the Committees, the IRRC and the public.

In accordance with § 5.1 (j.1 and j.2) of the Act, this regulation was (deemed) approved by the Committees on . The IRRC met on and approved the regulation.

In addition to submitting the proposed rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

### **FINDINGS**

The Department finds that:

(1) Public notice of proposed rulemaking was given under §§ 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) These final-form regulations are necessary and appropriate for the administration of the Public Welfare Code.

# 14-471

APR 18 2003



**ORDER**

The Department, acting under the Public Welfare Code, orders that:

(a) The regulations of the Department, 55 Pa. Code, are amended to read as set forth in Annex A.

(b) The Secretary of the Department has submitted this Order and Annex A to the Office of General Counsel and the Office of the Attorney General for review and approval as to legality and form as required by law. The Office of General Counsel and the Office of the Attorney General have approved this Order and Annex A as to legality and form.

(c) The Secretary of the Department shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.

(d) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart D: DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 183. INCOME

\* \* \* \* \*

MONTHLY ASSISTANCE PAYMENT DETERMINATION

\* \* \* \* \*

§ 183.105. Increases in income.

An increase in actual, deemed or estimated income of the budget group in a calendar month affects eligibility and the amount of the monthly assistance payment as follows:

\* \* \* \* \*

(4) If the increase in income is due to receipt of a lump sum [income] the following applies: PAYMENT, THE PAYMENT IS TREATED AS INCOME IN THE MONTH OF RECEIPT AND A RESOURCE IN SUBSEQUENT MONTHS AS FOLLOWS:

(i) [If the increase in lump sum income of the budget group or LRR other than the parent of an AFDC minor parent living with the budget group results in ineligibility, assistance is terminated no later than the payment month corresponding with the budget month in which the income was received. The budget group is ineligible for the number of full months for which the lump sum and other countable net income will meet the needs of the budget group and LRR whose lump sum income is counted. The standard of need--Appendix B, Table 1--used to determine the period of ineligibility is the one applicable to the county in which the budget group resides and is based on the number of persons in the budget group plus the LRR whose lump sum income is counted.] The amount of A lump sum PAYMENT is counted as income in the month of receipt, if IT IS received by a member of the budget group or certain other household members such as an LRR, a parent of a TANF minor parent, a stepparent or a sponsor of an alien. The lump sum income deductions are applied, as specified in §§ 183.91, 183.93, 183.94, 183.95 and 183.98(1) (3)(7). A LUMP SUM

PAYMENT RECEIVED BY A SPONSOR IS SUBJECT TO DEEMING, PROVIDED THE ALIEN ENTERED THE UNITED STATES WITHIN 3 YEARS PRIOR TO THE MONTH IN WHICH THE PAYMENT WOULD BE COUNTED UNDER § 183.36 (RELATING TO INCOME DEEMED AVAILABLE FROM A SPONSOR).

[(A) If the income calculated as remaining after the period of ineligibility is less than the monthly assistance payment, it is considered income only in the first month following the period of ineligibility.

(B) If the income calculated as remaining after the period of ineligibility is equal to or exceeds the monthly assistance payment, the budget 2group is ineligible for 1 additional month. The remainder is a resource, if available, in the month of reapplication.

(C) The period of ineligibility applies to an individual whose lump sum income is counted and those individuals who were receiving or applied for assistance during the month the lump sum income was received. Other individuals who did not receive or apply for assistance during the month the lump sum income was received and who subsequently apply may be eligible for a monthly assistance benefit.

(D) Advance notification of ineligibility includes the computation upon which the period of ineligibility is based. If the exact amount of the lump sum income received is unknown due to the refusal to provide this information, the budget group is determined to be ineligible due to failure to cooperate.]

(ii) [Recalculation of the period of ineligibility following the initial application of this subparagraph is required under certain circumstances. The recalculation may only shorten the period of ineligibility, not lengthen it. The grant may be restored at the end of the recalculated period of ineligibility upon reapplication, if the budget group is otherwise eligible for a grant. No retroactive benefits may be granted for any period of time prior to the date of the reapplication. Recalculations are made only under the following conditions:] ~~If the lump sum income does not result in ineligibility, the increase in actual or deemed lump sum income in the month of receipt affects the assistance payment in the corresponding payment month.~~ INCOME DEDUCTIONS, AS SPECIFIED IN §§ 183.91—183.95 AND 183.98, ARE APPLIED TO A LUMP SUM PAYMENT.

[(A) When a member of the budget group leaves the family taking the remaining funds from the lump sum income and refuses to make the lump sum available to the rest of the family. The period of ineligibility for the remaining members is recalculated beginning with the month of the loss of these funds by the remaining members as follows:

(I) If funds which should be remaining are removed, the remaining members are eligible. If only part of those funds which should be remaining from the initial lump sum calculation are removed, the period of ineligibility is recalculated by dividing the funds which should be remaining, less the amount of funds removed, by the standard of need for the number of persons covered under the original lump sum calculation remaining in the household. The amount remaining is considered income under subparagraphs (i) and (iii).

(II) The original period of ineligibility is applied to the persons who left the household. The amount remaining is considered income under subparagraphs (i) and (iii). The period of ineligibility is applied whether or not the members later return to the household.

(B) When a natural disaster or other life or health threatening event over which the budget group has no control necessitates expenditure of the balance of the lump sum income. This clause applies only when, prior to the event, the budget group was using the lump sum income to meet 2 essential needs and there are no other income or resources sufficient to meet the needs resulting from the event.



(C) When medical expenses are incurred and paid for a member of the budget group, which are for medically necessary surgery or medical care to treat a congenital condition, serious illness or traumatic injury, if medical needs were not taken into account in determining the initial period of ineligibility; the needs cannot be met by other income or resources; and, the lump sum income was being used to meet the essential needs of the budget group.

(D) If the budget group is unable to verify the cost of essential needs, such as shelter, clothing and food, allow for basic living needs under the standard of need levels for the size of the budget group in recalculating the period of ineligibility.]

(iii) [The amount of lump sum income received by the nonassistance stepparent, parent of an AFDC minor parent or sponsor of an alien remaining after disregards as defined in §§ 183.91, 183.93 and 183.98(1)--(3) (relating to LRR, parent of an AFDC minor parent and stepparent deductions; sponsor deductions; and unearned income and lump sum income deductions) is considered only in the month of receipt under § 183.71(b) (relating to gross income test) and paragraphs (2) and (3). A portion retained by the stepparent or parent of an AFDC minor parent subsequent to the month of receipt is a resource to that person and is not to be



considered in determining eligibility for a budget group unless actually made available to them. A portion retained by the sponsor subsequent to the month of receipt is a resource to the alien in subsequent months.] ~~When the lump sum is received by a budget group member or LRR living in the household, other than a parent of a TANF minor parent, any portion of the lump sum that remains after the month of receipt is considered a resource under § 177.11 (relating to identification and verification of resources).~~ THE RECEIPT OF A LUMP SUM PAYMENT AFFECTS ELIGIBILITY AS FOLLOWS:

(A) IF A LUMP SUM PAYMENT DOES NOT RESULT IN INELIGIBILITY, THE ACTUAL OR DEEMED LUMP SUM IS ADJUSTED AS INCOME IN THE CORRESPONDING PAYMENT MONTH.

(B) IF A LUMP SUM PAYMENT RESULTS IN INELIGIBILITY ONLY IN THE MONTH OF RECEIPT, ASSISTANCE IS SUSPENDED IN THE CORRESPONDING PAYMENT MONTH.

(C) IF A LUMP SUM PAYMENT RESULTS IN INELIGIBILITY THAT MAY LAST MORE THAN ONE MONTH, ASSISTANCE IS TERMINATED FOR THE FIRST PAYMENT DATE THAT CAN BE REACHED EITHER

IN THE MONTH OF RECEIPT OR THE FOLLOWING MONTH AFTER PROPER NOTICE IS PROVIDED, AS DESCRIBED IN § 133.4 (RELATING TO PROCEDURES). AN OVERPAYMENT OCCURS FOR CASH ASSISTANCE RECEIVED DURING A MONTH OF INELIGIBILITY.

(iv) [An individual who receives GA and who is determined to be ineligible for a specified period due to receipt of lump sum income may apply for and receive AFDC during this period if otherwise eligible. Remaining lump sum income is considered a resource under Chapter 177 (relating to resources).] WHEN A LUMP SUM PAYMENT IS RECEIVED BY A BUDGET GROUP MEMBER OR LRR LIVING IN THE HOUSEHOLD, THE Any portion of the lump sum PAYMENT retained by the stepparent or parent of a TANF minor parent subsequent to THAT REMAINS AFTER the month of receipt is CONSIDERED a resource to the stepparent or parent of the TANF minor parent and is not to be considered in determining eligibility for the budget group unless it is actually made available to the budget group UNDER § 177.1 (RELATING TO GENERAL REQUIREMENTS).

(v) WHEN A LUMP SUM PAYMENT IS RECEIVED BY A STEPPARENT OR A PARENT OF A TANF MINOR PARENT, THE Any portion of the lump sum retained by the sponsor of an alien subsequent to STEPPARENT OR

PARENT OF A TANF MINOR PARENT AFTER the month of receipt is a resource to the alien in subsequent months, providing the alien's entry into the United States is within 3 years THAT INDIVIDUAL AND IS NOT CONSIDERED IN DETERMINING THE ELIGIBILITY OF THE BUDGET GROUP UNLESS IT IS ACTUALLY MADE AVAILABLE TO THE BUDGET GROUP.

(A) IF A STEPPARENT OR PARENT OF A TANF MINOR PARENT RECEIVED A LUMP SUM PAYMENT, THE NET AMOUNT OF THE LUMP SUM, AFTER ALLOWABLE DEDUCTIONS, IS DEEMED AS INCOME TO THE BUDGET GROUP IN THE MONTH THE LUMP SUM IS RECEIVED.

(B) IN THE MONTH FOLLOWING THE MONTH OF RECEIPT, THE REMAINING PORTION OF THE LUMP SUM WOULD BE A RESOURCE TO THE STEPPARENT OR PARENT OF A TANF MINOR PARENT. THIS RESOURCE AMOUNT WOULD BE EXCLUDED AS A RESOURCE TO THE BUDGET GROUP UNLESS THE STEPPARENT OR PARENT OF A TANF MINOR PARENT MADE ANY OR ALL OF IT AVAILABLE TO THE BUDGET GROUP.

(vi) If the lump sum makes the budget group ineligible ONLY in the month of receipt, and the ineligibility is expected to last more than 1 month, assistance is terminated for the first payment date that can be reached either in the

~~month of receipt or the following month after proper notice is provided as described in § 133.4 (relating to procedures). An overpayment occurs for cash assistance received during the months of ineligibility.~~ WHEN A LUMP SUM PAYMENT IS RECEIVED BY A SPONSOR OF AN ALIEN, THE PORTION RETAINED BY THE SPONSOR AFTER THE MONTH OF RECEIPT IS A RESOURCE TO THE ALIEN IN SUBSEQUENT MONTHS, PROVIDED THE ALIEN ENTERED THE UNITED STATES WITHIN 3 YEARS PRIOR TO THE MONTH IN WHICH THE PAYMENT WOULD BE COUNTED, AS SPECIFIED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH.

(vii) If the exact amount of the A lump sum PAYMENT THAT IS received is unknown because of a refusal to provide this information, the budget group is ineligible due to failure to cooperate under § 125.21(a) (relating to policy).

\* \* \* \* \*

**Please Return To:**

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

**IRRC  
14<sup>th</sup> Floor  
HARRISTOWN II**

I.D. NUMBER: 14-471  
SUBJECT: Income  
AGENCY: DEPARTMENT OF PUBLIC WELFARE

**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

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REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
6/23	<i>sd. Chan</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
6/23	<i>[Signature]</i>	
6/23	<i>Kristi Kreider</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
6/23	<i>[Signature]</i>	
6/23	<i>E. Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)