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REGULATORY REVIEW COMMISSION

IRRC Number:

2224

Regulatory Analysis Form

(1) Agency

Department of Public Welfare/Office of Income Maintenance/
Bureau of Policy/Division of Welfare Reform Initiatives

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

(3) Short Title

Temporary Assistance for Needy Families (TANF) (March 3, 1997)

(4) PA Code Cite

55 Pa. Code Chapters 105, 123, 125, 133, 140, 141, 145, 151, 153, 165, 175, 177, 178, 181, 183, 187 and 281

(5) Agency Contacts & Telephone Numbers

Primary Contact: Edward 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 non-technical language.

To promulgate regulations for the TANF program, and related changes to General Assistance (GA), and Medical Assistance (MA) Programs. It makes minor changes to the Food Stamp program.

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

The statutory authority for this regulation is: §§ 201(2) and 403(b) of the Public Welfare Code (62 P.S. §§ 201(2) and 403(b)) (code); the Support Law (62 P.S. §§ 1971—1977); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; § 5543 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33) (42 U.S.C.A. § 653(p); § 1902(a)(10)(A) and (C) of the Social Security Act, 42 U.S.C.A. § 1396a(a)(10)(A) and (C)); the Federal TANF regulations in 45 CFR §§ 260.10-265.10; Act 1996-35 (Act 35), enacted on May 16, 1996, amending the Act of 1967, P.L. 31, No. 21, as amended; and Act 1997-58 (Act 58) (23 Pa.C.S. §§ 4301 - 4381; § 5103; §§ 7101 - 7901; and §§ 8101 - 8418).

(Continued on separate page designated as 1A)

9. **State the statutory authority for the regulation and any relevant state or federal court decisions.**
(Cont'd.)

Maldonado et al. v. Houstoun et al., 177 F.R.D. 311 (E.D. Pa. 1997) aff'd, 157 F.3d 179 (3d Cir. 1998), cert. denied, 526 U.S. 1130 (1999)– On October 6, 1997, the U.S. District Court for the Eastern District of Pennsylvania preliminarily enjoined the Department from enforcing the multi-tier durational residency portion of §432(5)(ii) of the Public Welfare Code. On September 9, 1998, that preliminary injunction was upheld by the U.S. Court of Appeals for the Third Circuit.

This litigation was discontinued following the decision of the U.S. Supreme Court in Saenz v. Roe, 526 U.S. 489 (1999). That decision found unconstitutional a provision of California's statute essentially identical to 62 P.S. §432(5)(ii). Accordingly, no regulation will be promulgated to implement the multi-tier benefit provision for new residents in §432(5)(ii).

Success Against All Odds et al. v. Department of Public Welfare, 700 A.2d 1340 (Pa. Commw. 1997), No. 122 M.D. App. Dkt. 1997. On November 13, 1997, the Supreme Court of Pennsylvania stayed Commonwealth Court's order of August 20, 1997, which dismissed a challenge to DPW's cessation of the support pass-through program. DPW interpreted Act 1996-35 to end the support pass-through program when no longer required by Federal law. The Department continued support pass-through payments to cash assistance recipients as required by the November 13, 1997 stay order. On May 20, 1998, the Pennsylvania Supreme Court affirmed Commonwealth Court's ruling upholding DPW's interpretation of Act 1996-35 to end the support pass-through. Act 1997-58 repealed the support pass-through provisions of Act 1996-35. Act 58 requires DPW to first, repay the Federal share of current support collected on behalf of assistance recipients, and then, pass through the first \$50 to the budget group without decreasing the amount of assistance.

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(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.

Yes. Act 1996-35 (P.L. 175, No. 35) amending the Public Welfare Code (62 P.S. §§401-481). Section 10 of Act 1997-58 (P.L. 549, No. 58) adding 23 Pa. C.S. §§4371 - 4381.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104-193).

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

This final-form regulation amends 55 Pa. Code to establish the Federally-authorized TANF program. It also includes conforming and related changes to the GA, MA and Food Stamp programs. .

Federal and State legislative changes enacted under PRWORA, Act 1996-35 and Act 1997-58 are designed to ensure that receipt of cash assistance is temporary and serves as a transition to work and/or self-sufficiency. Pennsylvania's new welfare reform plan is designed to provide short-term assistance to families when the support provided by one or both parents is interrupted. It also provides supplemental support when family income from employment or other sources is not sufficient to meet basic needs. Welfare (Public Assistance) is not intended to provide long-term support. Welfare reform includes work activity participation requirements and a lifetime limit of five years for the receipt of TANF assistance. This rulemaking also includes exceptions to the time limit.

To mitigate the effects of work and child support requirements on persons who have been subjected to or are at risk of domestic violence, Pennsylvania adopted the Family Violence Option (FVO), which is part of PRWORA. The FVO enables victims of domestic violence to remain safe by giving them the opportunity to access domestic violence counseling, safety planning, and other needed services before seeking work or child support. Temporary waivers of certain program requirements, such as work or child support requirements, may be granted if compliance puts individuals and/or their children at risk of further domestic violence.

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

There are no public health, safety, or environmental risks associated with non-regulation. The general risk associated with non-regulation includes loss of Federal funding due to noncompliance with Federal requirements. Non-regulation could also result in litigation for non-compliance with either Federal or State law.

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

Applicants and recipients may benefit from this rulemaking. Changes in regulations apply to applicants and recipients of TANF, GA, and MA in the following categories: TANF-related Non-Money Payment (NMP-MA), including Healthy Beginnings, TANF-related Medically Needy Only (MNO-MA), and GA-related MA. Needy families may benefit from temporary assistance that is available when the support of one or both parents is interrupted and income from employment and other sources is nonexistent or insufficient to meet basic needs.

(Continued on separate page designated as 2A)

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

The regulation supports the Department's comprehensive welfare reform plan that promotes self-sufficiency through work and provides support for needy families demonstrating personal responsibility to the best of their abilities. Applicants and recipients required to work or participate in an approved work-related activity will be supported in their efforts. These supports, provided by the Department and its employment and training contractors, include assessments, case management, referral and special allowances. Income and resource eligibility rules are simplified and have shifted the focus of welfare to obtaining employment and becoming financially self-sufficient. The gross income test is eliminated and a full 50% of an individual's earned income is disregarded when determining eligibility for cash assistance. One motor vehicle, regardless of value, is excluded as a resource in determining eligibility. To support post-secondary education, student financial assistance is excluded as a resource or income. In addition, individuals engaged in education or training may be temporarily excused from work and work-related requirements to continue education or training. Individuals identified as victims of domestic violence may be referred for counseling and supportive services and temporarily excused from certain program requirements. Families meeting or exceeding minimum weekly work requirements may receive assistance that does not accrue to their 60-month lifetime limit on TANF assistance. Finally, all Pennsylvania citizens will benefit because these regulations ensure that tax dollars are spent on welfare programs that provide temporary supports to persons seeking to become self-sufficient.

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(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.)

Applicants and recipients who refuse to complete, sign or comply with an Agreement of Mutual Responsibility (AMR) without good cause will be ineligible for cash assistance. The AMR is a written agreement that outlines steps and activities a welfare recipient must take to achieve self-sufficiency.

Moreover, individuals or entire families may be sanctioned for willfully failing to meet work or work-related requirements without good cause. For individuals failing to cooperate with child support requirements without good cause, the cash grant will be reduced by 25%.

(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, MA and Food Stamps must comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation.

Most of these regulations relating to the TANF program were announced to the public in the initial TANF State Plan, published at 27 Pa.B. 342 (January 18, 1997). The public had 45 days to submit comments on the plan. The Department reviewed comments received. An updated TANF State Plan was published at 29 Pa.B. 5658 (October 30, 1999). These regulations are consistent with the amended State Plan.

A 30-day comment period followed publication of the proposed regulation at 31 Pa.B. 5875 (October 20, 2001). Public comments were solicited and commentators included nine citizens and numerous advocacy organizations such as Community Legal Services, Women's Law Project, Community Justice Project and the National Association of Social Workers and the Pennsylvania Coalition Against Domestic Violence.

(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 incurred by 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 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.

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(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 | \$204,363 | \$204,363 | \$204,363 | \$204,363 | \$204,363 | \$204,363 |
| Total Savings | \$204,363 | \$204,363 | \$204,363 | \$204,363 | \$204,363 | \$204,363 |
| COSTS: | | | | | | |
| Regulated Community | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Government | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| State Government | \$86,778 | \$83,740 | \$83,740 | \$83,740 | \$83,740 | \$83,740 |
| Total Costs | \$86,778 | \$83,740 | \$83,740 | \$83,740 | \$83,740 | \$83,740 |
| 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 estimates above reflect the cost of transitioning from the Aid to Families with Dependent Children (AFDC) program to the Temporary Assistance to Needy Families (TANF) program, as well as other changes which affect TANF, General Assistance (GA), Medical Assistance (MA), and Food Stamp programs.

The costs listed above include, but are not limited to: additional job placement and training costs; an increase in the availability of child care; an increase in supportive services (such as transportation allowances); caseload increases due to changes in income disregards and automobile exemptions; implementation of the Family Violence Option; and additional administrative costs.

The savings listed above are primarily due to case closures resulting from employment and the elimination of benefits for certain accused and convicted criminals.

Savings relating to the requirement that mothers identify by name the father of their child as a condition of receiving benefits have not been included due to the unavailability of data regarding the number of recipients affected by this change.

Certain provisions of the proposed changes to the AFDC, GA and MA programs may have a minimal impact on MA benefits for affected recipients. However, due to a lack of data regarding the impact on the affected population, fiscal impacts cannot be assessed at this time.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 | FY -2 | FY -1 | Current FY |
|---------------------------------|-----------|-----------|-----------|------------|
| Cash Grants | \$259,688 | \$311,394 | \$292,301 | \$271,774 |
| County Administration-Statewide | \$42,371 | \$45,157 | \$45,463 | \$43,115 |
| New Directions | \$81,552 | \$85,218 | \$72,516 | \$73,098 |
| | | | | |

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

From a budgetary perspective, there are no costs.

These regulations are intended to provide the supports and incentives necessary to assist recipients in their efforts to become self-sufficient prior to the expiration of their 60-month TANF eligibility period.

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

Non-regulatory alternatives were not considered because they are impracticable to operate the TANF program.

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

Alternative regulatory approaches were not 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 provisions are more stringent than Federal standards.

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

A comparison of eligibility factors, work requirements, time limits and child support requirements of contiguous states indicates that these regulations should not put Pennsylvania at a competitive disadvantage with other states.

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

Yes. These regulations will affect Extended TANF for which notice of proposed rulemaking was published January 26, 2002 (32 Pa.B. 431). This rulemaking will also affect existing DPW regulations listed in item 4.

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

No additional public hearings or meetings are scheduled. The majority of these rules were announced to the public under the TANF State Plan, published at 27 Pa.B. 342 (January 18, 1997). Local governments and private sector organizations had 45 days or until March 2, 1997 to submit comments on the plan. At the end of the 45-day comment period, the Department reviewed comments received. An updated TANF State Plan was published at 29 Pa.B. 5658 (October 30, 1999). As with the initial Plan, local governments and private sector organizations had 45 days or until December 15, 1999, to submit comments on the Plan. At the end of the 45-day comment period, the Department reviewed comments received.

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(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.

Yes. This regulation will increase the paperwork requirements because each applicant or recipient of cash assistance who is required to sign an application for assistance is required, as a condition of eligibility, to sign an approved Agreement of Mutual Responsibility (AMR) with the Department. The AMR (Form PA 1661) sets forth the responsibilities and obligations the recipient must undertake to achieve self-sufficiency, the time frames within which each obligation is to be completed, the penalties for failure to comply with any of the stated obligations, and the services to be provided by DPW.

In addition to the AMR, a "Participant Guide to Success" (PA 1680) has been developed for applicants and recipients of cash assistance who must comply with work and work-related requirements. That guide is used as an assessment tool by recipients engaged in an initial eight-week job search.

Form PA 1712, End of Sanction Letter, was developed to remind individuals under a first or second durational sanction of the date the minimum sanction period ends.

(Continued on separate page designated as 8A)

(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 provide that the following income/resources are not counted in determining eligibility: 1) one car or truck; 2) the cash value of life insurance; 3) educational assistance; 4) savings for education; 5) savings accounts established under the Family Savings Account Program to pay for education, home purchase or business endeavors; and 6) 50% of gross earned income. Further, the gross income test is eliminated. Other special provisions address the needs of victims of domestic violence. For example, individuals may receive a good cause waiver of work and/or child support requirements if cooperation with these requirements will compromise their safety. The Department's policy regarding good cause for individuals engaged in education or training from work and work-related requirements to continue their education or training is incorporated into this rulemaking. Policy permits certain individuals to receive assistance off the TANF "clock." Finally, special consideration is given to individuals with disabilities.

(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 following amendments shall take effect upon publication in the *Pennsylvania Bulletin* for §§ 123.22, 133.23(a)(1)(i)(A), 140.41, 140.65, 141.21(e), 141.41(c), 141.41(d), 141.61(c), 153.44(b)(2)(i)(C), 165.2, 165.22, 165.31(b), (c) and (e), 165.41, 165.51, 165.52(a)(3), (c) and (d), 165.71(b), 177.21, 178.161, 181.251, 181.262, 181.287, 183.32, 183.38, 183.71, 183.81, 183.105(4)(iii), 187.25(a), 187.25(a)(3), 187.25(b), 187.26(c)(1)(i) and (iii), 187.26(c)(2)(i) and (iii), 187.26(d)(1)(i) and (iii) and Chapter 281. The following amendments will be effective retroactive to March 3, 1997 for §§ 105.1, 105.3, 105.4, 125.1, 133.23, 140.53, 140.81, 141.1, 141.21, 141.41, 141.42, 141.61, 141.71, 145.43, 151.42, 151.43, 153.42, 153.43, 153.44, 165.1, 165.11, 165.21, 165.25, 165.31, 165.52, 165.61, 165.71, 177.22, 177.24, 178.11, 178.12, 178.151, 178.165, 181.41, 181.42, 181.263, 181.273, 181.311, 183.23, 183.94, 183.96, 183.97, 187.21, 187.22, 187.23, 187.24, 187.25, and 187.26. Section 183.81(29) will be effective retroactive to October 1, 1998. Sections 153.44(d)(1)(i)(B), (ii) and (iii), 187.22 and 187.27 will be effective retroactive to July 3, 2000.

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

The Department reviews an annual sample of GA cases in accordance with §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.

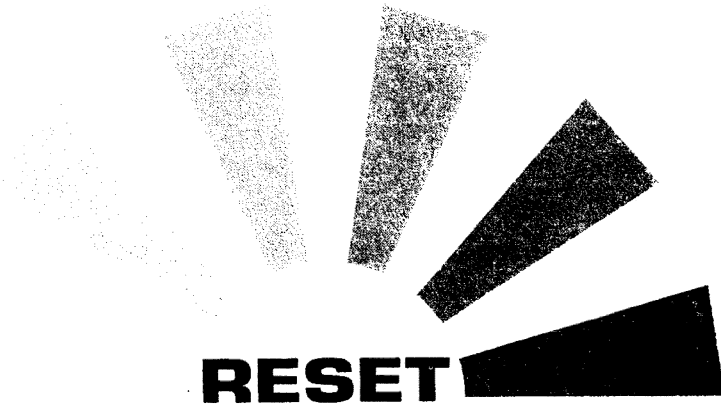
- 28. Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available. (Cont'd)**

Form PA/CS 1747, Verification of Good Cause Based on Domestic Violence, will be completed in all cases where good cause for not cooperating with child support requirements is requested. This form also documents whether the good cause claim is approved or denied. Copies of these forms are attached.

Effective March 3, 1997, Client Information System (CIS) began tracking the days cash assistance is received by certain TANF individuals since TANF assistance is limited to 60 months (1830 days) in a person's lifetime.

The Automated Interface Management System (AIMS) was developed for use by employment and training contractors to provide services to recipients. AIMS eliminated the paper communication process between the contractors and County Assistance Offices by establishing an interface with CIS. AIMS tracks work activities and hours of participation to ensure compliance with program requirements.

Commonwealth of Pennsylvania



**Road to Economic Self-Sufficiency
through Employment and
Training (RESET)**

*Complete
brochure in
Public file.*

Participant Guide To Success

Name _____

Case Number _____

SSN _____



AGREEMENT OF MUTUAL RESPONSIBILITY

YOUR RESPONSIBILITY IS TO:

- ✓ Understand that you may receive a cash benefit from the Temporary Assistance for Needy Families (TANF) Program for a total of only **5 years (60 months) in your lifetime**. TANF provides **temporary** help until you and your family are again able to support yourself.
- ✓ Make a **Plan for Self-sufficiency** with the help of your county assistance caseworker. Complete the steps in your plan by the time-frames you establish jointly.
- ✓ Include **steps in your plan** that will help you get a job or take part in a work activity for an average of at least 20 hours per week.
- ✓ Read your *Participant Guide to Success* for information about getting started with your search for a job.
- ✓ Ask your caseworker to help you update your plan when you complete the steps or your situation changes.

OUR RESPONSIBILITY IS TO:

- ✓ Provide **temporary financial help** and available supportive services to help you complete your plan successfully.
- ✓ **Help YOU set goals** and decide what steps **YOU** need to take to reach those goals.
- ✓ Identify resources available from the county assistance office as well as from the community to help you become independent of welfare.

TAKING STEPS TO BECOME SELF-SUFFICIENT

EMPLOYMENT

- The best way to get off welfare and on the road to self-sufficiency is through a job.
- If you are not working an average of at least 20 hours per week, you **MUST** start a job search or take part in a work activity. We have information and work shops that can help you with your job search.
- After you have received assistance for 24 months, you **MUST** either be working an average of at least 20 hours per week or be participating in one of the work activities listed in your *Participant Guide to Success* for an average of at least 20 hours per week.
- A caseworker is available to discuss programs that are available to assist you in your search for work.
- We can help with additional assistance for the cost of child care, transportation and other work-related expenses, if needed. Ask your caseworker about child care consumer education and resource and referral services.

MORE STEPS TO BECOME SELF-SUFFICIENT

COURT ORDERED SUPPORT

- Combining income from a support order with the wages you earn from a job can make the difference in getting you and your family off welfare.
- You **MUST** cooperate with the local Domestic Relations agency to obtain child support. This includes providing the father's name and any other information you have about an absent parent, keeping appointments and signing and returning support forms.
- We will help you file all the necessary papers with the court.

EDUCATION

- Getting a high school diploma or learning a skill or trade can mean a good job and a brighter future.
- If you don't have a high school diploma and are under age 18, you **MUST** attend high school or GED classes AND GRADUATE!
- We can help you with expenses, such as the cost of child care and transportation, so you can return to school.
- Seeing that your children do well in school today will give them a head start on a better tomorrow.

HEALTH

- Keeping yourself and your children healthy is an important step to independence.
- If you are pregnant, it is important that you keep all appointments scheduled by your doctor or clinic.
- Health screenings, immunizations and medical care, as recommended by your doctor or clinic, will help your children grow into healthy adults. Ask about the health screening program for children under age 21.
- Ask your caseworker about transportation to get to your doctor or clinic.
- If drugs or alcohol are preventing you from finding or keeping a job, you **MUST** participate in and complete an available certified substance abuse counseling program.

OTHER ACTIVITIES

- Make all payments to child care providers and other providers from allowances given to you for special needs.
- Your caseworker will help you identify other activities that will help you improve your situation and your chances for becoming self-sufficient.
- You **MUST** report to your caseworker when you complete the steps in your plan or your situation changes.

**YOUR PLAN FOR SELF-SUFFICIENCY
IS YOUR BLUEPRINT
FOR A BETTER FUTURE.**

PLAN FOR SELF-SUFFICIENCY AND MEETING WORK REQUIREMENTS

AGREEMENT OF MUTUAL RESPONSIBILITY

| | | |
|----------|---------------|---------------------|
| NAME: | | SOCIAL SECURITY NO: |
| CASE NO: | TELEPHONE NO: | DATE: |

MY GOAL(S):

| MY ACTION PLAN | TAKE ACTION BY | ACTION COMPLETED |
|--|----------------|------------------|
| 1. MEETING WORK REQUIREMENTS: Hours worked: Participate in WHAT: _____ WHERE: _____ WHEN: _____ | | |
| 2. PLAN FOR SELF-SUFFICIENCY: | | |
| 3. FACILITATE WORK BY: | | |
| REPORT ON THIS PLAN TO: _____ AT: () _____ WHEN: () _____ | | |

MY GOAL IS TO BE ABLE TO SUPPORT MYSELF AND MY FAMILY:

| |
|-------------|
| MONTH/YEAR: |
|-------------|

I have read and understand this agreement. I understand that signing this agreement is a condition of eligibility and that the penalties, listed on the reverse side of this form, may be imposed if I fail, without good cause, to complete certain activities. I agree to take the actions outlined in this plan. (62 P.S. 405.3)

The agency will provide supportive services, to the extent possible, to help you complete the actions outlined in your plan.

| | |
|---------------------------|---------------|
| _____ CLIENT SIGNATURE | _____ DATE |
| _____ AGENCY SIGNATURE | _____ DATE |

AGREEMENT PENALTIES

| IF YOU REFUSE OR FAIL TO: | THE PENALTY WILL BE: |
|---|---|
| Develop a plan with your caseworker and sign the Agreement of Mutual Responsibility. | You will not be eligible for your share of the cash grant until you complete and sign an Agreement. |
| Cooperate with the requirement to seek support and/or establish paternity, without good cause. | You will be removed from the grant and your benefits will be reduced by at least 25 percent. Benefits for your children will be sent to a protective payee. |
| Comply with work requirements, without good cause. This includes, but is not limited to: <ul style="list-style-type: none"> • actively searching for a job; • attending assessment interviews and workshops; <li style="text-align: center;">and • engaging in a work or work-related activity. | 1st violation - Ineligible for 30 days or until you comply, whichever is longer. 2nd violation - Ineligible for 60 days or until you comply, whichever is longer. 3rd violation - Permanent disqualification. During your first 24 months of receipt of assistance you will be ineligible. After 24 months, your entire family will be ineligible. |
| Maintain earnings by voluntarily, and without good cause, reducing your work hours to less than 20 hours per week during the first 24 months that you receive assistance. | Your grant will be reduced by an amount equal to what you would have earned if you had not voluntarily reduced your hours. |
| Attend high school or GED classes and graduate, if you are under age 18 and have not earned a high school diploma. | You will not be eligible for your share of the cash grant until you return to school. |
| Participate in available drug or alcohol treatment if substance abuse is determined to be a barrier to your employment. | You will not be eligible for your share of the cash grant until you cooperate with an available treatment plan. |
| Apply for other potential sources of income. | If you are an applicant for General Assistance, you are ineligible for at least 60 days and until compliance. Otherwise, you are ineligible until you comply. |

YOUR RIGHTS:

Prior to your benefits being reduced or discontinued, you have the right to request a review of your case to determine if you had good cause for not complying. You have the right to receive a notice of action before your benefits are reduced or stopped. You have the right to request a fair hearing if you disagree with our decision.

GOOD CAUSE:

Good cause will be considered if the reason for not completing the steps in your Plan for Self-sufficiency is beyond your control. Examples of good cause are lack of appropriate child care, sub-standard conditions at the job, or need to care for a disabled or ill person.

FOR DPW CASEWORKERS USE ONLY

ACTIVITIES CHECKLIST

- | | | |
|---|--|---|
| <input type="checkbox"/> Complete a job search. <input type="checkbox"/> Report for employment and training assessment/workshop. <input type="checkbox"/> Participate in a work-related activity an average of 20 hours per week. <input type="checkbox"/> Complete high school/GED. | <input type="checkbox"/> Establish paternity for a child. <input type="checkbox"/> Cooperate with all child support actions. <input type="checkbox"/> See that children attend school and graduate. <input type="checkbox"/> See that children receive health screenings and are immunized. | <input type="checkbox"/> Get good prenatal care. <input type="checkbox"/> Complete alcohol and drug abuse counseling. <input type="checkbox"/> Apply for other income. <input type="checkbox"/> Pay providers. Follow-up date _____ |
|---|--|---|

COMMONWEALTH OF PENNSYLVANIA
Department of Public Welfare

| | |
|---------|-----------------------|
| NAME | COUNTY/ALCOHOL NUMBER |
| ADDRESS | |
| | |

YOU CAN COME BACK ON ASSISTANCE

- You were sanctioned for failing to meet Welfare work requirements.
- You may come back on welfare if you comply with the Welfare work requirements.
- To find out what you need to do to begin receiving cash assistance again, contact your caseworker, who will help you.
- If you do not contact your caseworker, DPW will not be able to put you back on cash assistance.
- If you have any questions about this letter, contact your caseworker.

Caseworker's Name

Caseworker's Phone Number

Supervisor's Name

Supervisor's Phone Number

VERIFICATION OF GOOD CAUSE BASED ON DOMESTIC VIOLENCE

| | |
|--|---|
| NAME _____ | CASE NUMBER _____ |
| BLOCK ONE - Completed for <u>all</u> Good Cause based on domestic violence claimants. BLOCK TWO - Completed <u>only</u> if records are available. | BLOCK THREE - Completed if statements are needed from Third Party. BLOCK FOUR - Completed if no evidence/statements available. |

1. GOOD CAUSE CLAIM

I, _____, claim good cause for not cooperating with support cooperation requirements because of domestic violence. I have been asked to provide verification to support my claim. I have/will cooperate in providing verification below.

2. RECORDS

I SUBMIT ONE OF THE FOLLOWING, IF AVAILABLE:

| | |
|--|--|
| <input type="checkbox"/> LAW ENFORCEMENT RECORDS | <input type="checkbox"/> SOCIAL SERVICE RECORDS |
| <input type="checkbox"/> COURT RECORDS | <input type="checkbox"/> CHILD PROTECTIVE SERVICES RECORDS |
| <input type="checkbox"/> MEDICAL/TREATMENT RECORDS | <input type="checkbox"/> OTHER (SPECIFY) _____ |

3. AUTHORIZATION/VERIFICATION BY A THIRD PARTY

I authorize _____ to complete the verification below and to provide it to the Dept. of Public Welfare for the purpose of verifying my good cause.

DATE: _____ CLIENT SIGNATURE

THIS STATEMENT IS SUBMITTED BY:

_____ (NAME)
 _____ (TITLE)
 _____ (ORGANIZATIONAL AFFILIATION)
 _____ (ADDRESS)

I AM: (CHECK ONE)

| | |
|--|---|
| <input type="checkbox"/> A DOMESTIC VIOLENCE SERVICE PROVIDER | <input type="checkbox"/> A LEGAL REPRESENTATIVE |
| <input type="checkbox"/> A MEDICAL, PSYCHOLOGICAL OR SOCIAL SERVICE PROVIDER | <input type="checkbox"/> AN ACQUAINTANCE/FRIEND/RELATIVE/NEIGHBOR OF THE CLAIMANT |
| <input type="checkbox"/> A LAW ENFORCEMENT PROFESSIONAL | <input type="checkbox"/> OTHER (SPECIFY) _____ |
| <input type="checkbox"/> A COUNTY CHILDREN AND YOUTH REPRESENTATIVE | |

I have knowledge of the claimant's experience with and/or steps to escape domestic violence and submit this statement to verify that _____ is unable to cooperate with support cooperation requirements because of domestic violence. I believe cooperating with support requirements may place the victim and/or household or family members at risk of domestic violence and/or make it more difficult for the victim and/or household or family members to escape domestic violence.

DATE: _____ THIRD PARTY SIGNATURE

4. AFFIRMATION

I affirm that cooperating with paternity establishment or support requirements will place me and/or my household or family members at risk of domestic violence, make it more difficult for us to escape violence, and/or penalize us because of domestic violence. I do not have and am unable to safely obtain evidence to verify the domestic violence.

DATE: _____ SIGNATURE:

5. GOOD CAUSE DECISION

| | |
|-----------------------------------|--------------------------------------|
| <input type="checkbox"/> APPROVED | <input type="checkbox"/> DISAPPROVED |
| _____ <small>WORKER</small> | _____ <small>SUPERVISOR</small> |
| _____ <small>DATE</small> | |

LIST OF COMMENTATORS ON PROPOSED REGULATIONS

REGULATIONS TITLE: TANF Program -- #14-472

**PUBLISHED IN PENNSYLVANIA BULLETIN, VOLUME 31, NUMBER
42 PAGE NO. 5875**

DATE: October 20, 2001

COMMENT DEADLINE: November 19, 2001

| NAME AND ADDRESS OF COMMENTATOR | |
|--|--|
| 1 | Community Legal Services 1424 Chestnut Street Philadelphia PA 19102-2505 Richard P. Weishaupt Sharon M. Dietrich Louise Hayes Amy E. Hirsch Jonathan M. Stein |
| 2 | Rebecca S. Myers, LSW Executive Director National Association of Social Workers 1337 North Front Street Harrisburg, PA 17102-2629 |
| 3 | Hal Taussig President Idyll Development Foundation 415 Jasper Street Media, PA 19063 |
| 4 | Berry Friesen Executive Director The Pennsylvania Hunger Action Center Suite 200 208 North Third Street Harrisburg, PA 17101 |

| NAME AND ADDRESS OF COMMENTATOR | |
|--|--|
| 5 | <p>Kathleen M. Fisher Watching Out Project Coordinator Philadelphia Citizens for Children and Youth Seven Benjamin Franklin Parkway Philadelphia, PA 19103</p> |
| 6 | <p>Terry Fromson Women's Law Project Suite 300 125 South Ninth Street Philadelphia, PA 19107</p> <p>Peter Zurflieh Community Justice Project 118 Locust Street Harrisburg, PA 17101</p> |
| 7 | <p>Carol Alexy Director of Contracts PCADV Suite 1300 6400 Flank Drive Harrisburg, PA 17112-2791</p> |
| 8 | <p>Natalie S. Sondheimer, MSS Public Benefits Coordinator Maternity Care Coalition Suite 205 2000 Hamilton Street Philadelphia, PA 19130</p> |

| NAME AND ADDRESS OF COMMENTATOR | |
|--|---|
| 9 | Pennsylvania Council of Children, Youth and Family Service Suite 109 2040 Linglestown Road Harrisburg, PA 17110 Wendy S. Hoke Witmer Bernadette M. Bianchi |
| 10 | Nichelle A. Mitchem, Esq. Executive Director Women Against Abuse, Inc. P. O. Box 13758 Philadelphia, PA 19101-3758 (Comments received via FAX) |
| 11 | Sister Ramona Davis Hope Christian Tabernacle Church 2222 West Master Street Philadelphia, PA 19121 |
| 12 | Mary Kilian Ayuda Community Center 4400 North Marshall Street Philadelphia, PA 19140-2340 |
| 13 | Just Harvest 120 East Ninth Avenue Homestead, PA 15120 Rachel Canning Rochelle Jackson |

| NAME AND ADDRESS OF COMMENTATOR | |
|--|---|
| 14 | <p>Joel Weisberg, Chair The Welfare Coalition 222 Pine Street Harrisburg, PA 17101</p> <p>Cathleen L. Palm Cathleen L. Palm and Associates P. O. Box 1422 Mechanicsburg, PA 17055</p> |
| 15 | <p>Susan Sierra Philadelphia Unemployment Project Room 702 1201 Chestnut Street Philadelphia, PA 19107</p> |
| 16 | <p>Kathy Wellbank Program Director Interim House 333 West Upsal Street Philadelphia, PA 19119-4010</p> |
| 17 | <p>Gloria Guard Peoples Emergency Center Rowan House 325 North 39th Street Philadelphia, PA 19104-4656</p> |
| 18 | <p>Nichelle A. Mitchem, Esq. * Executive Director Women Against Abuse, Inc. P. O. Box 13758 Philadelphia, PA 19101-3758</p> |

***(Comments received via U.S. Mail – duplicate of #10 (FAX comments))**

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE SECRETARY
REVIEW COMMISSION

2224

DO NOT WRITE IN THIS SPACE

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

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved.
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: David C. Clark

DOCUMENT/FISCAL NOTE NO. 14-472
(DPW-OIM-02-98-001)

DATE OF ADOPTION: _____

BY: [Signature]

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: [Signature]

JUN 28 2002

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
Department of Public Welfare
Office of Income Maintenance

- [55 Pa. Code Chapter 105]
Safeguarding Information
- [55 Pa. Code Chapter 123]
Definitions
- [55 Pa. Code Chapter 125]
Application Process
- [55 Pa. Code Chapter 133]
Redetermining Eligibility
- [55 Pa. Code Chapter 140]
Special MA Eligibility Provisions
- [55 Pa. Code Chapter 141]
General Eligibility Provisions
- [55 Pa. Code Chapter 145]
Age
- [55 Pa. Code Chapter 151]
Specified Relatives

[55 Pa. Code Chapter 153]
Deprivation of Support or Care
[55 Pa. Code Chapter 165]
Employment and Training Program
[55 Pa. Code Chapter 177]
Resources
[55 Pa. Code Chapter 178]
Resource Provisions for
Categorically 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]
Income
[55 Pa. Code Chapter 187]
Support From Relatives Not
Living With The Client
[55 Pa. Code Chapter 281]
Time-Out Benefits

STATUTORY AUTHORITY

The Department of Public Welfare (Department), by this order, adopts the regulations to read as set forth in Annex A. The statutory authority for this rulemaking is: §§ 201(2) and 403(b) of the Public Welfare Code (62 P.S. §§ 201(2) and 403(b)) (code); the Support Law (62 P.S. §§ 1971—1977); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; § 5543 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33) (42 U.S.C.A. § 653(p); § 1902(a)(10)(A) and (C) of the Social Security Act, 42 U.S.C.A. § 1396a(a)(10)(A) and (C)); the Federal TANF regulations in 45 CFR §§ 260.10-265.10; Act 1996-35 (Act 35), enacted on May 16, 1996, amending the Act of 1967, P.L. 31, No. 21, as amended; and Act 1997-58 (Act 58) (23 Pa.C.S. §§ 4301 - 4381; § 5103; §§ 7101 - 7901; and §§ 8101 - 8418).

Notice of proposed rulemaking was published at 31 Pa.B. 5875 (October 20, 2001).

NEED FOR REGULATION

The purpose of this rulemaking is to codify regulations based upon landmark Federal and State welfare reform legislation that emphasizes personal responsibility, work and self-sufficiency. Specifically, TANF and Act 35 transformed welfare from an unlimited entitlement to a temporary support system. The new regulations reflect the legislative intent to promote self-sufficiency. Changes, including more substantial work requirements and increased financial incentives for working welfare recipients, illustrate this refocus of welfare. Moreover, Act 58 contains revised provisions requiring cooperation with the Child Support Enforcement Program (established under Title IV-D of the Social Security Act) as a condition of eligibility for cash assistance, and a new support pass-through program. Implementation of child support cooperation provisions is another key component to assure an income source for needy families seeking to achieve self-sufficiency. This rulemaking provides numerous supports and incentives to assist employable individuals in their quest for financial independence. These supports and incentives include waivers of various program requirements for victims of domestic violence, a 50% earned income disregard, exclusion of educational savings accounts and special allowances, such as for child care and transportation expenses, to support training, education and work.

SCOPE

This rulemaking codifies the basic TANF program. The regulations affect applicants and recipients of TANF assistance, General Assistance (GA) and Medical Assistance (MA). Certain provisions regarding employment and training also affect food stamp recipients.

Grounded in the legislative directive in Act 35 that work is essential to self-sufficiency, this rulemaking incorporates statutory work and work-related requirements and sanctions for willful noncompliance with these requirements. At the same time, the Department recognizes that some individuals have significant obstacles that hinder their ability to work. Depending on the nature and extent of these obstacles, an individual may be exempt or excused from work and work-related requirements for good cause, and receive appropriate supportive services. These requirements and benefits associated with employment and training are embodied in the Department's Road to Economic Self-Sufficiency Through Employment and Training (RESET) program, established by Act 35.

This rulemaking also reflects changes involving good cause waivers of child support cooperation requirements for victims of domestic violence. The Department elected to adopt the Family Violence Option (FVO) (42 U.S.C.A. § 602(a)(7); 45 CFR §§ 260.50-260.59) in 1997, and implemented many FVO provisions in a Notice of Rule Change (NORC) published at 30 Pa.B. 2957 (June 10, 2000). In doing so, the Department demonstrated a commitment to help victims of domestic violence become self-sufficient without compromising their safety.

Further, to ensure that the Department's regulations are consistent with its policy and TANF State Plans, this rulemaking includes other changes to existing regulations. For example, the Department amended various provisions to exclude educational assistance as income or a resource. In addition, the Department has incorporated its revised good cause policy for education and training in this rulemaking. These and other changes required applicable amendments to regulations governing TANF-related and GA-related MA.

Finally, this rulemaking incorporates the Federal 60-month time limit for TANF assistance and specifies how that time accrues. The regulations also clarify exceptions to the 60-month limit. The definition of family also reflects a clarification

regarding application of the time limit policy for certain specified relatives. For assistance that extends beyond the 60-month limit, the Department has proposed a separate rulemaking at 32 Pa.B. 431 (January 26, 2002). The Department refers to those benefits as "Extended TANF." The Department intends to publish final rulemaking for Extended TANF following adoption of this final-form rulemaking. In the interim, TANF individuals who reach the 60-month limit will continue to receive TANF assistance if they are otherwise eligible. In the following comment/response section of this Preamble, the Department's time limit policy is discussed in greater detail.

AFFECTED INDIVIDUALS, GROUPS AND ORGANIZATIONS

This rulemaking affects applicants and recipients of TANF, GA, Medicaid and Food Stamps.

ACCOMPLISHMENTS/BENEFITS

This rulemaking establishes the framework for the Department's cash assistance program. 62 P.S. § 403(b) requires, consistent with State law, that the Department shall establish rules for GA consistent with those for TANF whenever possible. With this in mind, the Department's rulemaking has a dual purpose: 1) to accomplish the legislative goals of promoting self-sufficiency through work; and 2) providing support to needy individuals to meet that goal.

By offering a comprehensive array of employment and training programs and services, the Department helps recipients prepare for, secure, retain and advance in employment. Assessments and case management, referral, specialized services and special allowances are additional benefits the Department and its employment and training contractors provide. Specialized services include those for individuals exempt from work and work-related requirements. Revised support provisions enable victims of domestic violence to receive counseling services, safety planning and waivers of cooperation requirements without jeopardizing their eligibility for cash assistance. Further, individuals engaged in education and training may be temporarily excused from work and work-related requirements to continue education or training. Individuals without appropriate care for their children or incapacitated adults in their care may also be excused from these requirements until such care is available within a reasonable distance round-trip from home.

In this rulemaking, the Department also provides additional financial incentives to recipients seeking employment and economic independence. For example, income and resource regulations are simplified and more generous than existing rules. Elimination of the gross income test and the disregard of 50% of earned income provide incentives for applicants and recipients. The earned income disregard is an especially strong

incentive for individuals to work because only half of a TANF recipient's earned income is counted in determining the cash assistance grant. One motor vehicle per family and educational accounts are also excluded. These financial incentives facilitate the transition to self-sufficiency and economic independence.

PAPERWORK REQUIREMENTS

The Department developed the following new forms to support revisions to regulations:

Form PA 1661, Agreement of Mutual Responsibility (AMR), is a written, individualized agreement between the Department and the recipient. As 62 P.S. § 405.3 provides, the AMR sets forth the responsibilities and obligations of the recipient to achieve self-sufficiency, the time frames within which the obligations are to be completed, the penalties for failure to comply and the Department's actions to support the recipient's efforts. The AMR is based on an assessment of the individual's skills and abilities. For each individual required to sign the application for benefits, the AMR is completed at application and redetermination. In addition, the AMR is updated at other times as needed.

The PA 1680, Participant Guide to Success, is completed as an important component of an individual's initial assessment to determine work history, job skills, and ability to work. The PA 1680 guides caseworkers and recipients through the initial job search.

Form PA 1712, End of Sanction Letter, is sent to remind individuals under a 30-day or 60-day RESET sanction of the earliest date the sanction could end, and explains how the individual can end the sanction.

Form PA/CS 1747, Verification of Good Cause Based on Domestic Violence, documents a good cause claim of domestic violence. The form must be completed when one of the following circumstances exists: 1) the individual provides acceptable verification of the claim of domestic violence; 2) a third party provides verification of the claim of domestic violence; or 3) the individual affirms in writing an inability to safely obtain evidence to verify the claim of domestic violence within the established time frames. Approval or denial of the good cause claim is noted on the PA/CS 1747.

SUMMARY OF PUBLIC COMMENTS AND CHANGES

Written comments, suggestions, and objections were solicited within a 30-day comment period after the publication date of the proposed regulation. The Department received 18 public comments. Commentators included: citizens, advocates, the Minority Chairman of the Senate Public Health and Welfare Committee, the Minority Chairman of the House Health and Human Services Committee and the Independent Regulatory Review Commission (IRRC).

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

§ 141.41(f) (redesignated as § 141.41(d) and Chapter 281. Time Limit Policy.

Federal Exceptions.

COMMENT: Commentators expressed concern that the proposed rulemaking does not include exceptions to the Federal 60-month time limit for TANF assistance. They identified four notable exceptions to the 60-month limit: 1) TANF assistance

beyond 60 months for up to 20% of the caseload based on hardship; 2) State-funded "off-the-clock" assistance; 3) Federally-funded non-assistance; 4) and assistance for victims of domestic violence. While they acknowledged the Department's off-the-clock ("Time-Out") and non-assistance initiatives, the election of the Federal Domestic Violence Option and plan to provide TANF assistance beyond the 60-month limit ("Extended TANF"), commentators asked the Department to incorporate these policies (including the Department's Maximizing Participation Project (MPP)) into the final rulemaking. Some commentators argued that the Department's current policies for Federal time limit exceptions conflict with proposed § 141.41(f). They questioned how the Department plans to reconcile this apparent conflict. They offered two alternative suggestions: 1) that the Department remove the time limit from this rulemaking and implement all time limit rules and exceptions in a comprehensive rulemaking; or 2) that the Department, at a minimum, add a general reference to time limit exceptions. Commentators also suggested that the Department revise the regulations to provide for an orderly transition from TANF to GA.

One commentator pointed out that Federal law permits states to provide up to 4 months of cash benefits in certain limited circumstances that do not count as "assistance." Because these benefits do not constitute "assistance," they are not subject to the 60-month time limit.

RESPONSE: The Department has revised proposed § 141.41(f) (redesignated as § 141.41(d)) by adding a new paragraph (5) that specifies that the time limit policy does not preclude the Department from providing TANF assistance that does not count towards the 60-month limit ("Time Out") or extends beyond the 60-month limit ("Extended TANF"). Accordingly, there is no conflict between the regulations establishing the 60-month time limit for TANF and the benefits that are not counted towards or extends beyond the 60-month limit. In addition, the Department offers certain non-assistance benefits. Time-Out and non-assistance are discussed below. Proposed rulemaking for the Extended TANF program was published at 32 Pa.B. 431 (January 26, 2002).

The Department implemented Time-Out as a new initiative with a public notice, announcing its intent to amend the TANF State Plan, at 31 Pa.B. 1639 (March 24, 2001). Time-Out is a fiscally segregated state-funded program permitted by Federal law. Assistance benefits funded solely through segregated state funds are subject to many TANF requirements such as work and child support, but are exempt from certain other requirements such as the 5-year time limit. (42 U.S.C.A. § 609(a)(7)(B)(i).)

To the extent that funding is available, and consistent with State and Federal law, families otherwise eligible for TANF benefits under Chapter 141 may receive benefits under Time-Out. In general, the purpose of Time-Out benefits is to provide incentives to

families meeting or exceeding minimum work participation requirements, or participating early in work and other employment-related activities or certain exempt volunteers. This program also provides assistance to victims of domestic violence. To encourage family members to care for minor children who are not residing with their parents, certain kinship caregivers may also benefit from the Time-Out program.

In accordance with the commentators' request that the Department clarify that Time-Out benefits "stop the clock" for purposes of applying the 5-year TANF time limit, the Department is incorporating the rules governing Time-Out into this final-form rulemaking. Chapter 281 reflects current policy and procedures regarding the Time-Out program as it has evolved during the past year since announcement of the initiative. Chapter 281 includes a definition for MPP and provides that an exempt individual who volunteers to participate in and comply with MPP may be eligible to receive Time-Out benefits. However, the Department invites interested persons to submit written comments regarding the program for consideration for future amendments. Such comments should be submitted to the Department of Public Welfare, Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081, within 30 days of the date of publication of this rulemaking. 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).

Finally, the Department has assigned a sunset date of July 1, 2004, to the Time-Out program. The Department finds that Congressional policy regarding reauthorization of the TANF program and availability of future State funding for this program are uncertain. Consequently, it is prudent to proceed cautiously in making this benefit available for a limited time period until a clear picture emerges regarding its continued viability.

As noted above, the Department has proposed rules for the Extended TANF program for families that have a hardship or include someone who has been a victim of domestic violence. As to the commentator's question concerning the receipt of GA following TANF, the Department's proposal for GA eligibility following the exhaustion of TANF is included in the proposed rulemaking for Extended TANF (32 Pa.B. 431). Given the discrete nature of the Extended TANF rulemaking, the Department has not combined it with this rulemaking. The Department has decided to implement this basic TANF rulemaking first. It is the essential framework upon which the Department will build.

Nor has the Department included in this rulemaking the initiatives and projects known as non-assistance. Those initiatives, announced by public notice of intent to amend the TANF State Plan, published at 30 Pa.B. 2954 (June 24, 2000), include work supports and other services to low-income families. The Department's non-assistance benefits do not include cash benefits permitted by Federal law under limited

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circumstances for a maximum of 4 months. Instead, Individuals who have exhausted 60 months of TANF may be eligible to receive cash assistance beyond the 60-month limit under the Extended TANF program. There is no time limit for receipt of Extended TANF.

Non-Assistance benefits are pilot projects implemented by the Department directly, through contractors or by grants to other State agencies. The nature and extent of those benefits may vary in the future with changes in the needs of the recipients, availability of work supports, service projects and funding. The flexibility gained through funding specific projects enables the Department to respond more quickly to changes in need and take advantage of newly-developed initiatives to meet those needs, including initiatives developed by entities other than the Department. Non-assistance is not subject to the 60-month time limit. The 60-month time limit applies only to TANF "assistance." Because this rule does not apply to non-assistance, an exception for non-assistance is unnecessary.

In addition, the Department added a new paragraph (7) to § 141.41(d) to clarify that § 141.41(d) shall not be interpreted as requiring the Department to provide or continue to provide TANF assistance that does not count towards or extends beyond the 60-month limit.

Cash Assistance Handbook policy regarding "TANF assistance received."

COMMENT: Commentators suggested that the Department revise § 141.41 to include the policy outlined in § 105.251 of the Cash Assistance Handbook (CAH). This policy illustrates what is not considered TANF assistance received for the purpose of calculating the 60-month time limit. As the commentators noted, examples include: 1) when a recipient or budget group is under a durational sanction (and, consequently, does not receive cash assistance); 2) when TANF assistance is issued, but not received; and 3) when a recipient has fully reimbursed the Department for TANF assistance received.

RESPONSE: The Department concurs and has revised § 141.41 accordingly.

§ 141.42. Definition of family.

COMMENT: Commentators suggested that the definition of "family" in § 141.42 may lead to an excessive number of children being disqualified after 60 months of TANF. They claimed that the definition will disadvantage kinship caregivers and cause the children in their care to be ineligible for TANF. In addition, they submitted that this result would be contrary to the Department's policy of allowing certain specified relatives to receive TANF only for the children in their care. They requested that the Department revise the definition of family to exclude nonparental caregivers, as well as other non-TANF participating adults.

RESPONSE: The Department concurs with the comment and has clarified the definition of family by striking the second sentence of proposed § 141.42's definition of family. Additionally, § 141.41(d)(2) has been amended to provide that, for purposes of calculating the 60-month time limit, a family does not include a specified relative who is not included in the TANF mandatory filing unit as specified in § 171.21 (relating to policy) and is seeking assistance only for the minor child. Section 141.42 is also revised to include a cross-reference to § 141.41(d)(2).

§ 151.43(d)(1). Temporary absence of a minor child.

COMMENT: One commentator commended the Department for permitting a family to continue to receive assistance for a minor child who is temporarily absent from the home, but expected to return within 180 days. However, this commentator disagreed with the Department's decision to "create a new period of ineligibility" for a specified relative who fails to report a minor child's absence within 5 days of the time it becomes "clear" that the absence will extend beyond 180 days. The commentator claimed that the 30-day disqualification period in the regulation has no basis in Federal or State law and should be deleted. Further, the commentator stated that even if the disqualification period were authorized, disqualification should occur only when it is clear to the parent or relative that the child's absence will extend beyond 180 days and

that fact is not reported. Another commentator asked the Department to identify the statutory basis for the 30-day disqualification period. The commentator also asked when it would become "clear" that a child's absence will extend beyond 180 days.

RESPONSE: The Department agrees that the specified relative's duty to report the child's absence should arise only after it is clear that the child's absence will extend beyond 180 days. The Department has amended § 151.43(d)(1) accordingly. However, the Department does not agree with the commentator that it lacks statutory authority to impose a 30-day period of ineligibility on specified relatives who fail to meet the reporting requirement. Nothing in the Federal law governing the temporary absence provisions prohibits a state from establishing a minimum period of ineligibility for failure to report. 42 U. S. C. A. § 608(a)(10). Under State law, the Department is given broad authority to establish rules, regulations and standards as to eligibility for assistance and as to its nature and extent. (62 P.S. §§ 403(b), 432.) Under this State law authority, the Department has determined that a 30-day period of ineligibility for failure to report the child's absence when it is clear to the specified relative that such absence will continue beyond 180 days, is both fair and reasonable as a tool to ensure compliance with the regulation. Finally, in response to the commentator's question concerning when it would become clear that the child's absence will extend beyond the 180 days, each case will depend upon its own unique factual circumstances. Caseworkers will be instructed to consider the statements of the specified relative, circumstances surrounding the child's absence, and any supporting or conflicting evidence.

RESET participation requirements

§§ 125.1(f)(2)(vi) (redesignated as 125.1(i)(6) and (8)), 133.23(a)(1)(vi)(B)(VI) (deleted on final-form), 141.41(e) (deleted on final-form), 141.61(a)(1)(xv) (deleted on final-form), 165.1(a), 165.2, 165.31(a)(2) and (b) (redesignated as § 165.31(a)(1)), 165.61(a)(4) and (6). *Maximize employment.*

COMMENT: Commentators requested that the Department delete the phrase “maximize employment” from the regulations. They questioned the Department’s authority to require individuals to “maximize employment” as a condition of eligibility for cash assistance. Specifically, they suggested that statutory requirements do not include the requirement to maximize employment. One commentator also questioned the wisdom of requiring individuals to maximize employment, suggesting that this mandate would be too burdensome to those who may have difficulty working full time (for example, parents with disabled or troubled children).

RESPONSE: The Department has deleted the phrase “maximize employment.” However, this deletion does not imply that the Department concurs with the commentators’ position that this requirement lacks a statutory basis, would be too burdensome to some parents and does not belong in the regulation. Although the Department deleted the phrase “maximize employment,” it is replaced with language

that parallels 62 P.S. § 432.3(a)(iii), the statutory basis of this deleted phrase. Accordingly, the Department has revised each of the regulations that contained the phrase to follow 62 P.S. § 432.3(a)(iii), with the exception of § 165.2 (from which “maximize employment” is deleted as a definition). Specifically, the Department revised §§ 125.1(i)(8), 165.31(a)(2) and 165.61(a)(4).

This revision does not reflect a new interpretation of what the statute requires an individual to do regarding employment. With or without this revision, the individual must accept, work in and keep as many hours of employment as he is reasonably able to maintain. This means that an individual must maximize hours of employment, above minimum requirements, if the hours are available and he is reasonably able to work those hours. For example, if the individual has the opportunity to increase his work hours from 20 to 30 per week, he must accept the additional hours, unless he cannot reasonably do so (e.g., the 30 hours are available only during the night shift, and he is a single parent with no appropriate child care during that time; or, the 20-hour per week job pays him more than the other would). Because an individual must accept the additional hours only if he can reasonably do so, this requirement should not be too burdensome to those who may have difficulty working full-time. This requirement is consistent with the goal of TANF and Act 35 that a recipient transition from dependency through increased employment to self-sufficiency as soon as practicable.

§§ 123.22, 141.41(e) (deleted on final-form), 165.1(a) and (b), and 165.2. Assessments and consultations.

COMMENT: Commentators suggested that § 141.41(e) of the proposed regulations should be revised to include a requirement that the Department assess the needs of applicants and recipients and develop plans in consultation with them for addressing additional measures needed to make the individual employable. They pointed to 62 P.S. § 405.1 and 45 CFR § 261.11 as authority for this requirement. In addition, commentators stated that these assessments should be designed to direct individuals to programs which the client may not be aware of, which could enhance the individual's opportunity for work, such as an English-as-a-second-language course. Commentators suggested that undertaking such an assessment could avoid imposition of sanctions for violations under § 165.61 (relating to sanctions). Also, commentators questioned *when* the Department undertakes assessments required by Federal and State law.

RESPONSE: The Department agrees that the above provisions of State and Federal law require that an assessment of the individual must occur. In response to the commentators' concerns, the Department has amended § 165.1(a) (relating to general RESET provisions) to provide that each recipient's ability to meet RESET participation requirements will be assessed after consultation with the recipient. In addition,

§ 165.1(b) addresses additional measures needed to help the individual become employable. Section 165.1(b) states that the Department will provide RESET participants, to the extent necessary, with case management and approved supportive services. That subsection also provides that participants will be provided with or referred to education, training and employment-related activities designed to break the cycle of welfare dependency. To the extent it deems possible, the Department will identify and promote resources in the public and private sector that may assist participants to prepare for and obtain employment in jobs they may realistically be expected to obtain.

Next, the Department has also added a new definition of AMR located in § 123.22 (relating to definitions), which specifies that an AMR is an individualized agreement with the Department, *based on an assessment of the individual's skills and abilities*, which sets forth the responsibilities and obligations to be undertaken by the individual to achieve self-sufficiency, the time frames within which each obligation is to be completed and the penalties for failure to comply. Further, the AMR describes services to be provided by the Department. Finally, the Department has revised § 165.2 (relating to definitions) to conform to the new definition of AMR specified in § 123.22.

With regard to the concern that assessments may avoid imposition of sanctions, the Department submits that the compliance review process in §165.51 includes a review of facts presented by the individual and those known to the Department. As set forth in §165.51(c), no sanction will be imposed if the apparent noncompliance was not willful or the individual has good cause.

As to the commentator's question concerning *when* the assessment occurs, the Department submits that the assessment process is an ongoing one. There are a number of instances where the assessment occurs. First, in compliance with Federal regulations at 45 CFR § 261.11, the Department conducts an *initial* assessment. That assessment uses the Participant Guide to Success, form PA 1680, as a component of an individual's initial assessment, to determine work history, job skills and ability to work. This evaluation tool guides caseworkers and recipients through the initial job search. In addition, an individual participating in a contractor-operated employment and training program is offered a variety of assessments to determine skills, math and reading levels and employment preferences. After an assessment, the AMR will be updated as necessary.

§§ 141.41(e) (deleted on final-form), 141.61(a)(1)(xv) (deleted on final-form), 165.1, 165.31(a)(2), 165.31(b)(2), 165.61(a)(3) and 165.61(a)(4). Requirement that individuals participate in work and work-related activities "including those specified on the AMR."

COMMENT: Commentators questioned the Department's authority to require individuals to participate in work or work-related activities beyond those specified on the AMR. One commentator suggested that § 405.1(a.2)(4) of the Public Welfare Code states that all work-related activity shall be incorporated into the AMR.

RESPONSE: Individuals are required to comply with applicable statutory and regulatory requirements concerning work and work-related activities, even if they are not specified on the individual's AMR. The AMR does not recite each eligibility requirement in the Public Welfare Code. As §§ 123.22 and 165.2 specify, the AMR is an individualized agreement which specifies the activities in which the individual has agreed to participate, as well as the supportive services the Department will provide. The fact that the individual has agreed on an AMR to do certain activities does not obviate his responsibility to comply with applicable statutory requirements, including those which, e.g., require an individual to seek, accept and maintain employment. Thus, for example, an individual's AMR might provide for him to meet the work-related activity requirement through an unpaid activity such as community service. Subsequent

to the completion of the AMR, if the CAO refers the individual to subsidized employment or work experience, the individual is required to seek and accept the referral to that paid employment. This is consistent with 62 P.S. §§ 405.1(a.2)(1) and 432.3(a)(ii) and (iii). While 62 P.S. § 405.1(a.2)(4) provides that the AMR shall include the type of work-related activities that will be used to meet the individual's ongoing work-related activity requirement, nothing in that or any other section of the Code provides that the AMR mitigates the statutory obligation to seek and accept employment.

§ 125.1(i)(7), 141.41(e) (deleted on final-form), 141.61(a)(1)(xv) (deleted on final-form), 165.1(a), 165.31(b)(2), 165.31(c)(2), 165.61(a)(3) and 165.61(a)(4). Requiring more than 20 hours of participation.

COMMENT: Commentators questioned whether individuals working at least 20 hours per week must also participate in a work-related activity. At least one commentator suggested that the Department specify that these individuals are not required to participate in a work-related activity.

RESPONSE: Not all individuals working 20 hours per week will be required to participate in a work-related activity, but working at least 20 hours per week does not excuse an individual from participating in additional activities agreed to on the

individual's AMR. The AMR is individualized to support the goal of moving the individual to self-sufficiency. For any individual, this may or may not include a work-related activity in addition to 20 hours per week of work. Many of the Department's employment and training programs consist of at least 20 hours per week of work plus 10 hours of work-related activity, for example, job training. When an individual agrees on an AMR to participate in a specific work-related activity, including a contracted program, that individual is required to continue the activity as set forth on the AMR, unless and until the AMR is revised. Of course, if the individual is exempt from RESET or demonstrates good cause for not complying with a work or work-related requirement stated on the AMR, that individual is not sanctioned.

§§ 165.2, 165.21(c)(2), 165.25(2) and 165.52(a)(3). Appropriate child care and reasonable distance.

COMMENT: Commentators requested that the Department revise §§ 165.21(c)(2) and 165.25(2) to allow an individual to be exempt from RESET participation requirements if appropriate child care is not available within a reasonable distance from the individual's home or work site. They claimed that the proposed regulation is inconsistent with 42 U.S.C. § 607(e)(2)(A), which prohibits a state from

sanctioning an individual if appropriate child care within a reasonable distance from the individual's home or work site is unavailable. They also noted that 45 CFR § 261.56(b)(2)(ii) requires that the Department define the terms "appropriate" and "reasonable distance."

RESPONSE: The Department agrees that an individual is not subject to sanction for failure to meet a work (or work-related activity) requirement where appropriate child care is not available within a reasonable distance from the individual's home or work site. The Department has amended § 165.52(a)(3) to specify that individuals may establish good cause in this situation. The Department disagrees with the suggestion that §§ 165.21(c)(2) and 165.25(2) should be revised. 42 U.S.C.A. § 607(e)(2)(A) does not state that an individual unable to find appropriate child care within a reasonable distance from work or home is exempt from work requirements. It simply provides that an individual may not be sanctioned under these circumstances. Under revised § 165.52(c)(3), an individual may establish good cause for not participating in a specific activity or accepting a specific job when appropriate child care is not available within a reasonable distance from the individual's home, as defined in § 165.2. However, the individual is not exempt from work and work-related requirements. In addition, the Department has added definitions of "appropriate child care" and "reasonable distance" to § 165.2. These definitions are consistent with the definitions of "appropriate" and "reasonable distance" in the Pennsylvania State Plan for Child Care and Development Fund Services (10/1/01 – 9/30/03), Part 4.4.

§ 165.22. *Exemptions.*

COMMENT: One commentator questioned why the Department deleted the provision that excused an individual from the verification requirement when it is “clear” that the individual is exempt. For example, the commentator questioned why a “clearly mentally ill” individual must verify his condition.

RESPONSE: The Department deleted this provision because 62 P.S. § 405.1(a.3)(1) requires verification by a physician or psychologist for exemptions based on physical or mental disability.

§§ 165.22(c) and 165.25. *Notification and preparation time after an exemption ends.*

COMMENT: Commentators suggested that the Department revise § 165.25 by reorganizing it and stating that a person whose exemption is ending will be notified in writing of that fact and given an adequate opportunity to locate and prepare for a work or work-related activity.

RESPONSE: The Department has revised § 165.22(c) in lieu of § 165.25 by adding the following language: “The CAO will notify the exempt individual in writing when the period of exemption is due to end. . . . The individual will be given an opportunity to provide new or additional verification to continue the exemption. . . . The individual will be given the opportunity to prepare to comply with RESET participation requirements under § 165.31 (relating to RESET participation requirements).”

§ 165.31. Special allowances.

COMMENT: One commentator commended the Department for the practice of supporting education and training by offering special allowances when a person engages in education and training, even if it is not a mandated work activity. However, commentators suggested that § 165.31 does not clearly state whether special allowances for supportive services are available for all RESET participants, including exempt individuals who volunteer to participate in education and training programs and those who pursue education in addition to other work activities. They suggested that the Department revise § 165.31 to reflect the Department’s current practice to approve special allowances for those individuals. Also, commentators questioned whether the AMR will include a description of the individual’s special allowances.

RESPONSE: To clarify who is eligible for special allowances for supportive services, the Department has amended § 165.41 (relating to eligibility for special allowances and supportive services) instead of § 165.31. Section 165.41(a) provides that a cash assistance or food stamp recipient may receive certain special allowances. Section 165.41(b) provides that for cash assistance recipients, eligibility for special allowances for supportive services depends on the following: 1) eligibility for cash assistance; 2) participation in RESET, unless exempt; and 3) having an approved AMR. Subsection (b) also provides that an individual seeking only food stamps must comply with an approved EDP to qualify for a special allowance for supportive services. Subsection (c) has been clarified to provide that supportive services do not include transportation to secondary education (or an equivalent level of vocational or technical training), except for a pregnant female or custodial parent, whose circumstances require additional supports. Finally, subsection (d) clarifies that the CAO will inform the individual, in writing and orally, of the availability of special allowances at application, reapplication and whenever the AMR or EDP is developed or revised. With these revisions, § 165.41 clarifies that individuals who participate in employment and training activities, whether voluntary or mandatory, are eligible to receive special allowances for supportive services if they have an approved AMR reflecting these activities.

As to the question concerning whether the AMR will include a description of the individual's special allowances, the answer is yes. Section 405.3(a) of the Public Welfare Code provides that the AMR will include a description of the actions that the

Department will take to support the individual's efforts, which includes enumeration of special allowances that will be provided to the individual. Also, in §§ 123.22 (relating to definitions) and 165.2 (relating to definitions), the definition of AMR specifies that the AMR "describes the services to be provided by the Department."

§ 165.31(c)(1) (redesignated as § 165.31(b)(3)). Length of the initial job search.

COMMENT: Commentators asked the Department to revise the regulations by limiting the initial job search to eight weeks for those who are not working at least 20 hours per week.

RESPONSE: The Department agrees that the initial job search is generally limited to 8 weeks, as § 165.31(b)(3) clearly specifies. However, the Department has not revised the regulations as requested. For the initial job search, an individual may choose to participate in a contractor-directed job search, which combines job search and classroom instruction in the necessary skills and preparation required to conduct a successful job search. Following an initial eight weeks of classroom instruction, the individual participates in 90 or 120 days of contractor-assisted job search and literacy remediation, if needed. In this case, the individual's AMR would reflect this more intensive and expansive job search.

§ 165.31(c)(2) (redesignated as § 165.31(b)(4)). List of work-related activities.

COMMENT: One commentator suggested that the Department revise § 165.31(c)(2) (redesignated as § 165.31(b)(4) in final-form regulations) to include the limitations in 62 P.S. § 402 for work-related activities such as general education. For example, the commentator recommended that the Department revise this provision to include the statutory condition that an 18–22 year old must maintain satisfactory progress for general education to count as a work-related activity. The commentator also suggested that, for clarity, proposed paragraphs (2), (3) and (4) (redesignated as paragraphs (4), (5) and (6) on final-form rulemaking) should be consolidated into one paragraph.

RESPONSE: The Department agrees with the commentator's suggestion that the list of work-related activities in § 165.31 should include the limitations set forth in 62 P.S. § 402, and has revised the regulations accordingly. The Department also revised § 165.61 (regarding sanctions) to be consistent with the provisions of revised § 165.31. Finally, the Department did not consolidate proposed § 165.31(c)(2), (3) and (4). In a subsequent discussion with the Department regarding this suggestion, the commentator agreed that consolidating these paragraphs would not improve clarity, and could have the opposite effect.

§§ 165.31(c), (c)(2), (c)(3), (d)(1) (e) (redesignated as §§ 165.31(b), (b)(4), (b)(5), (c)(1) and (d)), (e) (redesignated as (d)) and (f)(4) (deleted on final form). "Approved" and prescribed work and work-related activities.

COMMENT: Commentators questioned the use of the word "approved" in the foregoing provisions. They stated that Act 35 does not use the word "approved." They questioned what authority the Department has to approve or prescribe work or work-related activities on the AMR. They also suggested that if "approved" refers to activities on the AMR, language should be added to the regulation to clearly state the activity must be in the individual's AMR. If not, they questioned what review process the Department envisions for these work activities and how a requirement that these activities be approved is consistent with the statute.

RESPONSE: The Department has authority under 62 P.S. §§ 405, 405.1(a.2)(4), 405.3(a) and 432.3(a)(ii) and (a)(iii) to prescribe appropriate work and work-related activities and additional measures that may be necessary for an individual to seek, accept and maintain employment, and may establish rules and standards for accomplishing these goals. For example, in accordance with 62 P.S. §§ 432.3(a)(ii) and (iii), the Department is explicitly authorized to refer an individual to a work or work-related activity, and to prescribe the time and manner in which to apply for work. The Department also approves activities that an individual selects or initiates, to the extent that the activities are consistent with RESET requirements.

Approved activities are set forth in the AMR. The Department has revised § 125.1 by adding a new subsection (j) to specify that. Although the Department has left the words “approved” and “approval” intact in most of the regulations cited in the comment, it has deleted the word “approved” in §§ 165.1(a) and 165.31(b)(2), where the use of the word “approved” was redundant. Because the AMR must be approved by the Department, it was redundant to refer to activities as being “approved” on the AMR.

§§ 165.31(c)(3), (c)(4), (d), (d)(2), (f) (redesignated as §§ 165.31(b)(5), (b)(6), (c), (c)(2) and (e)), (f)(4) and (f)(5) (deleted on final-form). Education and training.

COMMENT: Commentators suggested that the Department incorporate the Department’s current good cause policy regarding education and training in the regulations.

RESPONSE: The Department agrees with the commentators and has incorporated its good cause policy regarding education and training in the regulations. In addition, the Department has revised this policy to include individuals who have received less than 24 months of cash assistance. Rather than revising the sections

suggested by the commentators, however, the Department has revised §§ 165.52 (regarding good cause), 165.31(b)(5) (regarding RESET participation requirements during the first 24 months of assistance) and 165.31(c)(2) (regarding requirements that apply after the first 24 months), the relevant provisions for this change.

COMMENT: Commentators requested that the Department clarify that an individual may continue to participate in education and training if he combines it with another work-related activity. They also suggested that the Department allow education and training to count as a work-related activity beyond 12 months in certain circumstances, for example, for disabled individuals or those with limited English proficiency (LEP).

RESPONSE: The Department has revised §§ 165.31(b)(5) and 165.31(c)(2) to clarify that an individual may continue education or training beyond 12 months, but not as a work-related activity. Pursuant to 62 P.S. § 405.1(a.2)(5), education or training may count as a work-related activity for a maximum of 12 months. After 12 months of education or training, an individual may continue to pursue education and training, but shall also fulfill applicable RESET participation requirements, unless the individual establishes good cause under § 165.52.

Likewise, an individual who is disabled or has LEP may continue his education or training after 12 months, but it does not count as a work-related activity. However, a disabled individual may be exempt from or have good cause for not complying with RESET requirements, depending on the nature and extent of the disability. Similarly, an individual with LEP may establish good cause for not complying with RESET requirements, if the individual needs more time to overcome this barrier to self-sufficiency (for example, by completing an English-as-a-Second Language course).

COMMENT: Commentators suggested that the Department revise § 165.31(f) (redesignated as § 165.31(e) in final-form regulations). They questioned the need for paragraphs (1), (2) and (3), and suggested that (4) and (5) be renumbered or deleted as unnecessary because they relate to requirements in other subsections.

RESPONSE: The Department agrees in part and has deleted paragraphs (1), (3), (4) and (5). However, the text of paragraph (2) will remain intact. This paragraph specifies that, for self-initiated training to count as a work-related activity, an individual must be making satisfactory progress, as defined by the institution. This condition is based on 62 P.S. § 402, which applies the requirement specifically to general education for individuals ages 18–22. Although paragraph (2) is not limited to general education,

the Department has elected to leave this condition intact. Consistent with 62 P.S. §§ 405, 405.1, 405.3 and 432.3, the Department is clearly authorized to require individuals to pursue activities that promote self-sufficiency. Unsatisfactory performance in an educational or training program hinders this goal.

Paragraphs (4) and (5), which clarify that an individual may continue to pursue education after the period during which education can count as a work-related activity, were relocated. Paragraph (4), applicable in the first 24 months an individual receives assistance, was relocated to § 165.31(b)(5). Paragraph (5), applicable after 24 months, was relocated to § 165.31(c)(2).

Finally, because paragraph (3) is deleted from this subsection, the Department has revised § 165.41(c) (regarding special allowances for supportive services), although this revision was not proposed. This revision is consistent with the Department's policy that individuals pursuing secondary education or an equivalent level of vocational or technical training are ineligible for supportive services, except for pregnant females and custodial parents.

§§ 141.41(e) (deleted in final-form), 165.31(d) (redesignated as § 165.31(c)) and 165.51. *Review of eligibility vs. condition of eligibility.*

COMMENT: Commentators suggested that 62 P.S. § 405.1(a.2)(6) requires that after 24 months of cash assistance, individuals not participating in one or more work activities for at least 20 hours per week are subject only to a review of eligibility. They advised that the minimum 20-hour work requirement should not be stated as a condition of eligibility.

RESPONSE: The Department agrees that after 24 months of cash assistance, 62 P.S. § 405.1(a.2)(6) requires a review of eligibility for noncompliance with the minimum 20-hour weekly work requirement. However, the Department does not agree that a review of eligibility is all that is required as suggested by the commentators. Section 165.31 is entirely consistent with 62 P.S. § 405.1(a.2)(6), which provides that an individual who has received assistance for 24 months must participate for an average of at least 20 hours per week in one or more of the activities enumerated in that paragraph. Accordingly, the Department has not revised § 165.31 as requested. Although the minimum 20-hour per week work requirement is stated as a condition of eligibility, only those who willfully fail, without good cause, to comply with this condition of eligibility are subject to sanction.

§ 165.31(d)(1) (redesignated as § 165.31(c)(1)). Work study.

COMMENT: One commentator suggested that the Department add work study to the list of activities in § 165.31(d)(1) (redesignated as § 165.31(c)(1) in final-form regulations). The commentator explained that this revision would codify the Department's current policy regarding work study.

RESPONSE: Because work study is an example of subsidized employment, which is already listed in § 165.31(c)(1) (as redesignated), the Department does not think it is necessary to revise § 165.31(c) as suggested.

§§ 165.31(d)(1)(redesignated as § 165.31(c)(1)) and 165.61(a)(10)(i) (redesignated as § 165.61(a)(9)(i)). Unsubsidized employment.

COMMENT: One commentator asked, "What is unsubsidized employment?"

RESPONSE: Unsubsidized employment is paid work for which no public or private entity subsidizes the wages.

§§165.31(d)(2) (redesignated as § 165.31(c)(2)). Requirements that apply after 24 months.

COMMENT: One commentator suggested this paragraph should reference the sanctions and compliance review process.

RESPONSE: The Department agrees with the substance of the comment. Instead of locating the reference in subsection (c), it has been placed in subsection (a). Subsection (a) applies all the time, not just after 24 months.

§ 165.51. *Compliance review.*

COMMENT: Commentators questioned the change in § 165.51 from conciliation to compliance review, suggesting that the former conciliation process affords greater protection against sanctions than the compliance review process. They also claimed that the change does not reflect existing policy for conciliation and the changes proposed by the Department are not mandated by statute. One commentator also suggested that § 165.51 is inconsistent with the Department's "Community Connections" program.

Further, commentators suggested that the regulations should clearly state that caseworkers will provide sufficient notice of the review and schedule it at a mutually agreeable time, in person or by phone, and document the session. One commentator questioned what would happen if the individual has a conflict with the time chosen for the compliance review. The commentator also questioned how much notice must be given to the individual in advance of the compliance review. Finally, commentators recommended that the Department add cross-references to Chapter 275 (Appeal and Fair Hearing) and § 165.52 (Good Cause).

RESPONSE: The compliance review process replaces the existing conciliation process. The Department has substantially revised § 165.51. In doing so, the Department has adopted many of the commentators' suggestions and has responded to their questions. For example, § 165.51 now includes the commentators' requested cross-references to §§ 165.52 (good cause) and 275.1 (appeal and fair hearing) and specifies that the caseworker will inform the individual of the need for a compliance review. Although the regulation does not specify a time frame for providing advance notice, this concern is addressed. Revised § 165.51 provides that in scheduling the compliance review, the caseworker will reasonably take into account the individual's work schedule, family and school obligations. In addition, the review may be conducted

by telephone or in person, according to the individual's preference. The regulation now specifies that the caseworker will review the facts, including those presented by the Individual and those facts already known to the Department and document the results of the review.

Moreover, revised § 165.51 contains a special provision for individuals with disabilities. This provision states that the caseworker will consider an individual's disability during the compliance review period. This provision also states that if the individual did not comply with RESET participation requirements due to disability, no sanction is imposed.

As revised, § 165.51 underscores that the goal of RESET is to assist the individual in becoming employable and self-sufficient. Section 165.51 now illustrates that at each stage of the compliance review, the individual is an important participant. The compliance review is a multi-step process that provides an opportunity for the individual and caseworker to engage in a dialogue, together seeking to determine whether and why the recipient did not meet RESET participation requirements, and to address any obstacles to compliance.

Section 165.51 is also consistent with the Department's "Community Connections" program. Community Connections is an outreach program. The purpose of Community Connections is simply to remind individuals of program opportunities and requirements. Community Connections does not obviate the compliance review process; it supplements it. While the components of the compliance review process are not specifically mandated by statute, the compliance review process is necessary to effectuate compliance with RESET provisions.

§ 165.52. *Good cause.*

COMMENT: One commentator requested that the Department revise § 165.52 to include as good cause for not meeting RESET participation requirements certain characteristics that were exemptions under the AFDC program. The commentator specifically referred to former exemptions for individuals 60 years of age or older, caretakers for an incapacitated child or adult in the household, individuals in treatment for a drug or alcohol addiction and pregnant women.

RESPONSE: The Department has decided not to change § 165.52 as requested. The characteristics cited by the commentator do not form the basis for exemptions from RESET under 62 P.S. § 405.1(a.3), but can be bases for good cause

for not participating in a RESET activity. Good cause is determined by individual circumstances and their relationship to a specific RESET activity. In light of that, § 165.52 appropriately does not enumerate every circumstance, status or event that may constitute good cause. The characteristics cited by the commentator may constitute good cause under § 165.52. For example, an individual who is the caretaker for an incapacitated adult or child is not exempt from RESET but can establish good cause for not participating in a specific RESET activity under § 165.52(a)(3) if appropriate care for that adult or child is not available. Likewise, an individual who cannot participate in a specific activity because of reasons related to age or pregnancy can establish good cause under § 165.52(a)(1). Simply being in a treatment program for drug or alcohol addiction does not excuse (through exemption or good cause) participation in RESET, but if the treatment program conflicts with a RESET activity, the individual may have good cause for not participating in the conflicting RESET activity.

§ 165.61(a). *Grounds for sanction.*

COMMENT: The commentator objected to the list of sanctions set forth in § 165.61(a), and maintained that there are only 3 grounds for sanction pursuant to § 432.3(a) of the Public Welfare Code. (62 P.S. § 432.3(a).) The commentator specifically objected to the provisions in subsection (a)(6), which state that a sanction

may be imposed where the individual fails to “maximize employment.” Objection was also made to subsection (a)(12) (redesignated as (a)(11)), which provides that sanction may be authorized where the individual “fails to apply for work at the time and in the manner the Department may prescribe.” The commentator submitted that the Department lacks statutory authority for this requirement.

The commentator also objected to the fact that statutory protections such as only permitting a sanction for failure to work only when the recipient is “able to engage” in the assigned work, as required by 62 P.S. § 432.3(a)(iii), were not included. Additionally, the commentator objected to § 165.61 (a)(9) (redesignated as (a)(8)), which calls for a sanction when an individual “fails to participate in one of the following work activities during the first 24 months” without any requirement that the person be referred to such a program. By doing so, it is suggested that the Department has circumvented the consultative process set forth in 62 P.S. §§ 405.1(a.2), (4) and (5).

RESPONSE: First, with regard to the commentator’s objection that the Department lacks statutory authority to impose sanctions beyond the 3 sanctions listed in § 432.3(a) of the Public Welfare Code, the Department disagrees. The Department’s list is based upon not only § 432.3, but § 405.1 as well. In addition, §§ 405, 405.3(f)(1) and (f)(4), together with §§ 405.1 and 432.3, of the Public Welfare Code authorize the

Department to establish rules regarding grounds for sanction for noncompliance with RESET participation requirements, including requirements specified on an individual's AMR. Nevertheless, as a result of the Department's deletion of the term "maximize employment" from other sections of the regulation as noted elsewhere in this Preamble, the Department has deleted failure to "maximize employment" as a basis for sanction.

Although the Department deleted failure to maximize employment from § 165.61(a)(6), it revised (a)(4) with language that parallels 62 P.S. § 432.3(a)(iii), the statutory basis of the deleted phrase. As noted earlier, this revision does not reflect a new interpretation of what the statute requires an individual to do regarding employment. An individual is nonetheless required to maximize employment, above minimum requirements, to the extent that he is reasonably able to do so. Willful failure to do so, without good cause, is a basis for sanction under revised § 165.61(a)(4). Revised (a)(4) also addresses the commentator's concern that a sanction should not be imposed unless the individual is "able to engage" in the work. As (a)(4) now provides, a sanction will be imposed on an individual who willfully, and without good cause, fails to accept referral to, work in or retain employment in which the individual is able to engage. As to the objection to (a)(11), the specific statutory authority for that requirement is found in 62 P.S. § 432.3(ii).

As to the commentator's concern that there has been a short circuit of the consultative process by not clearly specifying that the individual must be referred to the work activity prior to authorizing imposition of the sanction as set forth in (a)(8), the Department disagrees. The Department maintains that the consultative process is ongoing. It begins at the application and when a RESET exemption ends and continues if the initial job search does not result in employment. In addition, there is consultation at each redetermination, and as necessary, the AMR is revised. During the first 24 months, this consultation includes the caseworker providing information on and referral to specific work-related activities.

Before a sanction is imposed, the individual has an opportunity to participate in an interactive compliance review, as specified in § 165.51. During the compliance review, the individual may provide information regarding apparent noncompliance with any RESET requirements, including referral to work-related activities.

§ 165.61(d). *Monetary sanction in lieu of the durational sanction.*

COMMENT: Commentators requested that the Department revise § 165.61(c) by providing for a monetary sanction in lieu of the durational sanction for individuals who reduce earnings after 24 months of cash assistance. They asked the Department to delete the phrase "during the first 24 months that assistance is received."

RESPONSE: Pursuant to 62 P.S. § 432.3(b), the Department may either reduce the cash grant or apply a durational sanction, or both, for voluntary reduction of earnings by not fulfilling the minimum 20-hour per week work requirement. The Department has elected to apply the durational sanction after the first 24 months to comport with the heightened work-hour requirements for individuals who have received 24 months of cash assistance. The Department has retained the proposed policy reducing the assistance grant in lieu of the durational sanction in the first 24 months.

§ 165.71(a) and (b). Notification.

COMMENT: Commentators commended the Department for providing a reminder to individuals under sanction that the sanction is ending. Commentators suggested that the Department revise § 165.71 by stating that the CAO will send notice to an individual when the minimum durational sanction is ending. One commentator suggested that the Department specify that the caseworker will notify the individual 5 days before the minimum durational period ends.

RESPONSE: The Department has revised § 165.71(b). The Department will send a written reminder 10 days prior to the end of the minimum sanction period. The Department concluded that 5 days was too short a period of time to provide a meaningful reminder.

§§ 123.22, 141.41(e) (deleted on final-form), 141.41(f) (redesignated as § 141.41(c)), 165.1(a), 165.2, 165.22, 165.31, 165.51, 165.52 and 281.3(a)(3). *Compliance with the Americans with Disabilities Act (ADA).*

COMMENT: Commentators suggested that the regulations do not comport with ADA requirements in five categories: assessments, verification of work exemptions for individuals who are “clearly exempt,” the twelve-month limitation on education and training, the compliance review and 60-month TANF time limit. Specifically, commentators claimed that the regulations do not comport with the ADA as follows: 1) they do not provide for assessments; 2) they should provide that individuals who are “clearly exempt” should not be required to verify that they are exempt from work requirements; 3) they should modify the 12-month limitation on education as a work activity for disabled individuals who need more time to obtain the full value of an educational program; 4) regarding the compliance review process, they afford less protection against sanctions for disabled individuals than the former conciliation process; and 5) they should modify the 60-month TANF time limit for disabled individuals who may need more time to become self-sufficient.

RESPONSE:

§§ 123.22, 141.41(e) (deleted on final-form), 165.1(a), 165.2 and 165.31. Assessments.

The Department has addressed the concern that the regulations do not provide for assessments by adding a definition of AMR in § 123.22 and revising the definition in § 165.2 to reflect the fact that an AMR is based on an assessment of an individual's skills and abilities. The Department has also revised § 165.1(a) to specify that an individual's ability to meet RESET participation requirements will be assessed after consultation with the recipient. Although one commentator cited proposed § 141.41(e) (deleted on final-form) and § 165.31 as the relevant sections for assessments, the Department does not agree. Section 165.31 involves only RESET participation requirements.

As previously explained, the assessment process is ongoing, occurring at numerous stages, for different purposes and in various contexts. As also previously noted, the Department does not specify details of the ongoing assessment process in the regulations. The primary reason for not regulating assessments beyond the scope of the AMR is that the nature and extent of additional assessments depend on an individual's circumstances and needs. One purpose of the assessment process is to identify obstacles, including disabilities, that may hinder self-sufficiency. Another purpose of the assessment process is to identify strengths and abilities that may facilitate self-sufficiency.

§ 165.22. *Verification for “clearly exempt.”*

The Department does not agree that the regulations should be revised to excuse “clearly exempt” disabled individuals from verification requirements in § 165.21(c)(1). For individuals seeking an exemption on the basis of disability, a physician or psychologist must verify two things: 1) that the disability exists; and 2) that the disability precludes the individual from any form of employment or work-related activity. (62 P.S. § 405.1(a.3)(1)). The requirement of physician or psychologist verification protects disabled individuals from the erroneous judgments of nonexperts. Section 165.22(a) provides further protection for disabled individuals as follows: “The CAO may assist an individual in obtaining verification when help is needed.” This subsection clearly benefits disabled individuals and others who may need help in obtaining acceptable verification for an exemption. As such, the Department submits that § 165.22 comports with ADA requirements.

§ 165.31(c)(3), *(redesignated as § 165.31(b)(5)). Twelve-month limitation on education and training as a work-related activity.*

The 12-month limitation on counting education and training as meeting the RESET participation requirement is mandated by statute, 62 P.S. § 405.1(a.2)(5). The Department has revised § 165.52 to reflect current good cause policy regarding

education and training. The Department submits that this revision for education and training affords sufficient ADA protection for disabled individuals pursuing education and training activities, by providing additional time to continue those activities.

§ 165.51. Compliance review.

The Department does not agree that the compliance review process set forth in § 165.51 affords less protection against sanctions for disabled individuals than the former conciliation process. As previously noted, the Department has made numerous revisions to § 165.51, including the addition of cross-references to §§ 165.52 (good cause) and 275.1 (appeal and fair hearing). One significant revision is the addition of subsection (e), a special provision for disabled individuals. Subsection (e) specifies that if a caseworker knows that an individual has a disability, the caseworker considers this fact, as well as those presented by the individual. If the facts reveal that the individual did not comply with RESET participation requirements due to disability, no sanction is imposed. In that instance, the caseworker will develop a new AMR to address the disability, and, if applicable, other obstacles to self-sufficiency.

The compliance review offers individuals sufficient notice and opportunity to be heard, including due process and ADA protections. The caseworker will be flexible in scheduling the compliance review, considering the individual's work, school and family obligations and accommodating a request for a telephone or in-person session, as revised § 165.51(b) provides.

§ 141.41(f) (redesignated as § 141.41(d)). Modification to the 60-month TANF time limit.

As previously explained, the Department has revised § 141.41(d) to reflect the Department's authority to provide TANF assistance that does not count toward or extends beyond the 60-month TANF time limit. Pursuant to this revision, the Department's decision to offer assistance that does not count toward or extends beyond the 60-month limit in part reflects a commitment to further strengthen efforts to help individuals with disabilities overcome obstacles to self-sufficiency.

First, Time-Out benefits, available under Chapter 281, do not count toward the 60-month limit. An individual who is exempt from participation in RESET because of a physical or mental disability that precludes employment is eligible to receive Time-Out under § 281.3(a)(3) if the individual voluntarily participates in the Maximizing Participation Project (MPP). MPP helps individuals address medical conditions, functional limitations or good cause situations that are barriers to self-sufficiency. Second, the Extended TANF program provides assistance beyond 60 months for an individual with a disability or other barrier to self-sufficiency. Extended TANF requires participation in MPP for these individuals.

Good cause for not cooperating in obtaining support or establishing paternity

§§ 187.25(a) and 187.25(b). Oral notification of right to claim good cause.

COMMENT: Commentators requested that the Department revise § 187.25(a) to include detailed oral notification of an individual's right to claim good cause for not cooperating in obtaining support or establishing paternity.

RESPONSE: The Department concurs, and has revised this section (and § 187.25(b)) accordingly.

§§ 187.27(b) and (c). Proof of good cause – use of the terms “corroboration” and “corroborative evidence.”

COMMENT: Commentators suggested that the Department replace “corroboration” and “corroborative evidence” with “verification.”

RESPONSE: The Department concurs, and has revised §§ 187.27(b) and (c) as requested. In addition, the Department has replaced “corroborated” with “verified.”

§ 187.27(b)(1)(iv). Verification of good cause – medical records.

COMMENT: Commentators suggested that § 187.27(b)(1)(iv) contains burdensome verification requirements and does not comport with other verification requirements for victims of domestic violence. They suggested that the Department delete this subparagraph.

RESPONSE: The Department has considered this comment and does not agree that verification requirements in this subparagraph are burdensome. This subparagraph is simply permissive; a victim of domestic violence is not required to produce medical records to verify her claim. Section 187.27(b)(1)(iv) applies to an individual who wishes to use medical records to verify a good cause claim, whether she is claiming good cause as a victim of domestic violence, incest or rape. Therefore, this provision is not inconsistent with other verification requirements for victims of domestic violence.

§ 187.27(b)(1)(v). Scope of good cause circumstances.

COMMENT: Commentators suggested that § 187.27(b)(1)(v) does not recite the full scope of good cause circumstances set forth in § 187.27(a)(4) (relocated to § 187.22, relating to definitions, in final-form regulations). They also asked the Department to delete the phrase “indicate that the putative father, noncustodial parent

or absent spouse might inflict harm on the individual or family member as specified under subsection (a)(4)” from § 187.27(b)(1)(v), and replace it with “verify domestic violence as defined at subsection (a)(4)”.

RESPONSE: The Department does not agree that § 187.27(b)(1)(v) should recite examples of good cause. This provision involves only verification of good cause. However, the Department has revised this provision by replacing the quoted language as suggested, and cross-referencing § 187.22, the relevant provision.

§§ 187.27(b)(1)(vi) and 187.27(b)(2). Prohibition on contacting abuser.

COMMENT: Commentators suggested that the Department relocate the following sentence in § 187.27(b)(1)(vi): “The CAO may not contact the putative father or noncustodial parent to verify good cause in a domestic violence situation.” They suggested moving the sentence to § 187.27(b)(2), which describes the CAO’s role in assisting with verification.

RESPONSE: The Department concurs, and has moved this sentence to § 187.27(b)(2). In addition, the Department has revised the sentence as follows: “The CAO may not contact the putative father or noncustodial parent to verify good cause based on a claim of domestic violence.”

§ 187.27(b)(1)(vii). *Person completing good cause waiver form.*

COMMENT: Commentators suggested that the Department revise § 187.27(b)(1)(vii) to clarify that the CAO will complete the Verification of Good Cause Based on Domestic Violence Form with the individual.

RESPONSE: The Department concurs, and has revised this section as recommended.

§§ 187.27(c)(3) and 187.23(d)(4). *Expiration of waivers.*

COMMENT: Commentators suggested that the Department revise §§ 187.23(d)(4) and 187.27(c)(3) to specify that a good cause waiver may last as long as necessary, subject to a review every six months. They questioned the wisdom of establishing an expiration date for a good cause waiver.

RESPONSE: The Department concurs, and has deleted reference to expiration of the waiver in § 187.27(c)(3), and in § 187.23(d)(4) the Department clarified that the good cause waiver may last as long of the good cause exists.

§ 187.27(c)(4). Review of good cause.

COMMENT: Commentators suggested that the Department revise § 187.27(c)(4) to clarify that a good cause waiver will not be reviewed more often than every six months. They recommended that the Department delete the last sentence in § 187.27(c)(4), which specifies that the review may be earlier if the circumstances warranting good cause change or the CAO granted the good cause waiver for a shorter period.

RESPONSE: The Department has revised this section as recommended. However, this revision does not preclude the Department from reviewing the good cause waiver before the usual 6-month review period. For example, if the CAO authorizes assistance for a mother and her children in February, but she receives a good cause waiver in May, the CAO would likely review good cause at her regular redetermination in August. Thereafter, the CAO would review good cause every 6 months, at each redetermination.

§ 187.27(c)(4)(i). Verification requirements after initial good cause waiver.

COMMENT: Commentators suggested that § 187.27(c)(4)(i) is unduly burdensome for victims of domestic violence. They suggested that an individual with a good cause waiver based on documentation or third party statements should not be

required to submit additional verification for future waivers, if her circumstances have not changed. They requested that the Department revise the provision by deleting the requirement that these individuals submit a Verification of Good Cause Based on Domestic Violence Form completed by a person trained in domestic violence.

RESPONSE: The Department concurs, and has revised this section as recommended.

§§ 187.23(b)(1)(i), 187.27(b)(1)(vii)(B), 187.27(b)(1)(vii)(C), 187.27(b)(3) and 187.27(c)(4)(ii). *Miscellaneous Chapter 187 revisions.*

COMMENT: Two commentators submitted an attachment to their written comments consisting of suggested minor edits to the sections noted above.

RESPONSE: The Department has revised all but one of these sections as suggested. The Department does not agree that the phrase "without good cause" should be inserted after the phrase "minor child" in § 187.23(b)(1)(i) (regarding identifying the father of an unemancipated minor). Section 187.23(b)(1)(i) simply follows 23 Pa.C.S.A. § 4379(2)(ii), which states that failure of the mother to identify the child's father shall create a presumption of noncooperation. As § 4379(2)(ii) illustrates, the General Assembly did not intend to obviate this presumption with a showing of good

cause. Rather, under 23 Pa.C.S.A. § 4380(b)(2), if the mother does not rebut this presumption, good cause excuses her noncooperation. However, the Department agrees that because it elected the FVO, in cases involving domestic violence, the cooperation requirement is altogether waived. In such cases, the CAO need not determine if the mother cooperated with this requirement.

Other comments

§ 153.44. Eligibility for TANF/Deprivation requirements.

COMMENT: Commentators requested that the Department revise § 153.44 by deleting rules regarding deprivation and two-parent families. They claimed that this policy is an unnecessary artifact of the former AFDC program, and disadvantages two-parent families. They suggested that the Department revise the regulations to provide that two-parent families will be evaluated for eligibility based on the same criteria as other families: income and willingness to meet RESET participation requirements, without regard to the number of hours worked.

RESPONSE: The Department has revised § 153.44 to eliminate several rules affecting the eligibility of two-parent families. Those rules originated in the AFDC program. These changes were implemented by a NORC published at 30 Pa.B. 2956 (June 10, 2000). The requirement in § 153.44(d)(1)(i) that the parent be unemployed at

least 30 days before eligibility begins was deleted. The definition of unemployment in § 153.44(d)(1)(ii) was revised by deleting the reference to part-time work. The change permits an otherwise eligible family to qualify without regard to the number of hours worked. The Department has also deleted § 153.44(d)(1)(iii) which defined part-time employment as work of less than 100 hours a month.

The Department has not eliminated the remaining rules regarding deprivation and two-parent families. As announced in its first TANF State Plan, Pennsylvania has retained rules from the AFDC program except for the changes outline in the State Plan.

The Department will consider the commentator's suggestion to eliminate all deprivation requirements for future rulemaking. The deprivation requirement limits TANF to families in which a child is deprived of the care and support of at least one parent due to absence, disability or unemployment. A thorough analysis of the fiscal impact would be necessary before eliminating this requirement.

§§ 141.41(c), 141.61(c), 181.251, 183.71 and 183.105(4)(iii). Gross income test for applicants.

COMMENT: Commentators requested that the Department eliminate the gross income test for applicants in § 183.71.

RESPONSE: The Department concurs, and has revised § 183.71. Additionally, the Department revised §§ 141.41(c), 141.61(c), 181.251 and 183.105(4)(iii) to be consistent with elimination of the gross income test for both applicants and recipients.

§ 187.22. Definition of budget group.

COMMENT: Commentators suggested that the Department revise the definition of budget group in § 187.22. They disputed that all siblings should be included in the budget group, including children for whom support or other income is paid. They noted that the Federal mandatory budget group requirement was eliminated when AFDC was repealed in 1996. One commentator questioned whether this definition discourages support from a noncustodial parent if that support must be included in the budget group income in determining eligibility.

RESPONSE: The Department does not agree that the definition of budget group should be revised as suggested. As the Department explained in its initial TANF State Plan, published at 27 Pa.B. 342 (January 18, 1997), many of the rules and procedures under which the Department administered the former AFDC program will remain in effect under the new TANF program. This includes the definition of budget group in §§ 141.42 and 187.22 and the policy for grant groups and filing units in § 171.21.

The Department's rationale for leaving the definition of budget group intact is premised on the explicit legislative purpose of public assistance: to enable needy individuals who lack sufficient means of support to become self-sufficient. See 62 P.S. §§ 401, 405.1, 432 and 432.12. Mindful of the need to allocate finite social welfare resources to the most needy, the Department requires individuals to first turn to other sources of income and resources before resorting to public assistance. To ensure that scarce public funds are preserved for the most needy, other financial sources are considered in determining a family's actual need for government benefits. Other financial sources include income, such as support, attributed to a sibling residing with a recipient child.

Finally, the Department does not agree with the commentator's suggestion that noncustodial parents may be inclined to withhold support if the regulation is not revised as requested. Pennsylvania law plainly requires parents to support their minor dependent children. See 23 Pa.C.S.A. § 4321. The Department's definition of budget group does not affect this obligation.

§§ 187.23(b)(6) and 187.23(c)(6). *Assignment of support.*

COMMENT: Commentators suggested that the Department revise §§ 187.23(b)(6) and 187.23(c)(6) to state that support received or anticipated to be received directly from the payor after assignment of support is not always required to be

paid to the Department. They explained that in the initial month of application for TANF, any support received or anticipated to be received is counted in determining the amount of assistance, subject to a \$50 disregard.

RESPONSE: The Department does not agree that §§ 187.23(b)(6) and 187.23(c)(6) should be revised as requested. However, the Department has revised § 183.32 to reflect the revised procedures for handling support payments received in the initial month of assistance.

With the conversion of the computer systems of the county domestic relations sections to the Statewide automated child support system of the Pennsylvania Child Support Enforcement System (PACSES), assignment of support to the Department is immediate upon authorization of assistance. Prior to authorization, support paid to an applicant is not assigned to the Department, but is counted in determining the amount of assistance for the initial month. Because assignment is immediate upon authorization, any support received after this time must be reimbursed to the Department, as 23 Pa.C.S.A. § 4379(2)(i)(F) specifically mandates. Sections 187.23(b)(6) and 187.23(c)(6) simply follow 23 Pa.C.S.A. § 4379(2)(i)(F). The Department does not intend to deviate from this statute.

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 preparation for final-form rulemaking:

1. 55 Pa. Code § 105.4(c)(2). The Department deleted as unnecessary the reference to the Public Welfare Code.

2. 55 Pa. Code §§ 125.1 and 133.23. From these sections, the Department deleted the description of the AMR. However, as explained in the Preamble discussion of assessments, the Department added a definition of AMR in § 123.22 and revised § 165.2. In addition, the Department deleted provisions in § 133.23 that reiterated parallel provisions in § 125.1. The deleted provisions recited various obligations and responsibilities specified on an AMR. Because § 125.1 contains a list of these obligations and responsibilities, revised to closely track 62 P.S. §405.3, the Department amended § 133.23 to specify that an individual must comply with these in accordance with § 125.1. Section 125.1 is revised to clarify the consequences of noncompliance, without good cause, with various AMR requirements. Section 133.23 is also revised to cross-reference § 125.1 for the penalties of failing, without good cause,

to sign or comply with the AMR. Further, § 133.23 is revised to specify that the worker and individual will review and assess the individual's progress in achieving self-sufficiency and compliance with the AMR and modify the AMR as necessary. To make these revisions, these chapters required technical edits, including reorganization and redesignation.

3. 55 Pa. Code §§ 140.41, 140.65, 177.21, 178.161, 181.262, 181.287, 183.38, and 183.81. The Department revised §§ 140.41, 177.21, 178.161, 181.262 and 183.81 for consistency with the TANF State Plans published at 27 Pa.B. 342 (January 18, 1997) and 29 Pa.B. 5658 (October 30, 1999). As revised, these regulations provide that educational assistance in the form of loans, grants and scholarships and work study income are not counted as income or resources in determining eligibility for cash assistance and TANF- and GA-related Medicaid. In addition, the Department deleted §§ 140.65, 181.287 and 183.38 as duplicative.

4. 55 Pa. Code § 141.41(f) (redesignated as (d)). The Department has further revised § 141.41(d) by adding the phrase "head of household or spouse of head of household" after the word "adult" to specify that the 60-month time limit is based on TANF assistance these adults receive. This revision is consistent with 45 CFR § 264.1(a)(1). Although this phrase does not appear in 42 U.S.C § 608(a)(7)(A),

PRWORA's legislative history supports this revision. See House Conference Report No. 104-725, page 288. The House Conference Report states that "[w]hen considering an individual's length of stay on welfare, states are to count only time during which the individual received assistance as the head of household or spouse of the household head."

5. 55 Pa. Code §§ 141.41(e) and 141.61(a)(1)(xv). The Department deleted these provisions as duplicative.

6. 55 Pa. Code §§ 153.42 and 187.22. The Department has revised the definition of cash assistance allowance in these sections to follow the definition in § 141.42.

7. 55 Pa. Code § 153.44(b)(2)(i)(C). The Department has deleted the reference to Form PA 162-A, Advance Notice, because this provision applies to both applicants and recipients. Applicants are sent Form PA-162, Notice to Applicant. Form PA 162-A is sent only to recipients.

8. 55 Pa. Code §§ 153.44(d)(1)(i)(E), 165.1(a), 165.2, 165.21, 165.21(c), 165.22(b)(2), 165.25, 165.31(a)(1), 165.31(f) and 165.52(a)(15). The Department has deleted the words "enroll" and "enrollment" and replaced them with the words "participate" and "participation."

9. 55 Pa. Code § 165.2 - EDP. Although the Department proposed to delete “EDP – Employment Development Plan,” the final rulemaking includes it, with a revised definition. The term is now obsolete for cash assistance, but is relevant for food stamp recipients. The EDP outlines a food stamp recipient's work activities, employment goals and services provided by the Department.

10. 55 Pa. Code § 165.2 – Noncompliance. The Department has revised the definition of noncompliance by deleting the words “willful” and “without good cause.” Noncompliance is not necessarily willful and without good cause.

11. 55 Pa. Code § 165.31(c)(4) (redesignated as § 165.31(b)(6)). The Department has revised this provision to clarify that an individual under this paragraph may satisfy RESET participation requirements by pursuing a high school diploma or its equivalent, provided that the individual maintains satisfactory progress.

12. 55 Pa. Code §§ 165.1(c), 165.31(b)(7), (b)(8) and (c)(3). The Department, under the authority of 62 P.S. § 405.3(d), has added subsection (c) to § 165.1 to clarify that the Department has discretion to provide employment, education, training, work-related activities or work experience programs to applicants or recipients. However, the Department has made clear that nothing in this rulemaking shall be interpreted as requiring the Department to develop or to offer or to continue to offer

such employment, education, training, work-related activities or work experience programs. Also, the Department added provisions to codify its interpretation of the 6-month limitation for work experience in 62 P.S. § 402. Sections 165.31(b)(7), (b)(8) and (c)(3) clarify that an individual may participate in work experience for 6 cumulative months in the individual's lifetime. Because the months are cumulative, if the individual participates in work experience for less than 6 months, he may use the balance of that 6-month period at a later time. The regulations do not preclude an individual who has exhausted his 6-month lifetime limit from engaging in a different type of RESET activity, including subsidized employment. The Department will modify the limit for individuals to comply with ADA requirements, as the regulations now specify.

13. 55 Pa. Code §§ 165.31(d) and 165.41. The Department has revised § 165.31(d) to clarify that final approval of a food stamp recipient's EDP rests with the Department and revised §165.41 to provide that food stamp recipients may receive special allowances for supportive services.

14. 55 Pa. Code § 165.52(a)(3). For consistency, the Department has revised § 165.52(a)(3) to specify that "appropriate care within a reasonable distance from the individual's home" also applies to adult care for an incapacitated adult.

15. 55 Pa. Code § 165.52(a)(9). The Department has deleted § 165.52(a)(9) as unnecessary and duplicative because revised § 165.52(a)(3) sufficiently addresses this situation.

16. 55 Pa. Code § 165.52(a)(16). The Department has deleted this provision as inconsistent with 62 P.S. §§ 405.1 and 432.3.

17. 55 Pa. Code § 165.61(a)(8) (redesignated as § 165.61(a)(7)). The Department has revised § 165.61(a)(7) by deleting the phrase “after having received cash assistance for 24 months or more.” With this revision, §165.61(a) clarifies that individuals who have received less than 24 months of cash assistance are also subject to sanction for reducing earnings.

18. 55 Pa. Code § 187.27(a)(4). The Department has moved the definition of domestic violence to § 187.22 (relating to definitions).

19. 55 Pa. Code Chapters 105, 123, 125, 133, 140, 141, 151, 153, 165, 178, 181, 183 and 187. The Department has made minor technical revisions to these chapters. For example, the acronym “AFDC” is replaced with the acronym “TANF” and “client(s)” and “person(s)” are replaced with “individual(s).” In addition, “will” replaces “shall” in provisions where the Department will act; “shall” replaces “will” in provisions where others have a duty to act.

FISCAL IMPACT

Commonwealth: The estimated savings to the Commonwealth for Federal Fiscal Year (FFY) 2001 and thereafter is \$204.363 million. The estimated costs to the Commonwealth for FFY 2001 are \$86.778 million and thereafter, \$83.740 million.

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.

EFFECTIVE DATE

The following amendments shall take effect upon publication in the *Pennsylvania Bulletin* for §§ 123.22, 133.23(a)(1)(i)(A), 140.41, 140.65, 141.21(e), 141.41(c), 141.41(d), 141.61(c), 153.44(b)(2)(i)(C), 165.2, 165.22, 165.31(b), (c) and (e), 165.41, 165.51, 165.52(a)(3), (c) and (d), 165.71(b), 177.21, 178.161, 181.251, 181.262, 181.287, 183.32, 183.38, 183.71, 183.81, 183.105(4)(iii), 187.25(a), 187.25(a)(3), 187.25(b), 187.26(c)(1)(i) and (iii), 187.26(c)(2)(i) and (iii), 187.26(d)(1)(i) and (iii) and Chapter 281. The following amendments will be effective retroactive to March 3, 1997 for §§ 105.1, 105.3, 105.4, 125.1, 133.23, 140.53, 140.81, 141.1, 141.21, 141.41, 141.42, 141.61, 141.71, 145.43, 151.42, 151.43, 153.42, 153.43, 153.44, 165.1, 165.11, 165.21, 165.25, 165.31, 165.52, 165.61, 165.71, 177.22, 177.24, 178.11, 178.12, 178.151, 178.165, 181.41, 181.42, 181.263, 181.273, 181.311, 183.23, 183.94, 183.96, 183.97, 187.21, 187.22, 187.23, 187.24, 187.25 and 187.26. Section 183.81(29) will be effective retroactive to October 1, 1998. Sections 153.44(d)(1)(i)(B), (ii) and (iii), 187.22 and 187.27 will be effective retroactive to July 3, 2000.

SUNSET DATE

Except for Chapter 281, there is no sunset date. Chapter 281 contains a sunset date of July 1, 2004. The regulations will be changed in accordance with changes in State and Federal law.

REGULATORY REVIEW ACT

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on JUL 08 2002 the Department submitted a copy of these final-form regulations 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.

Under § 5(c) of the Regulatory Review Act, the Department provided IRRC and the Committees with copies of all comments received during the public comment period. The Department has also provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request. In preparing the final-form regulations, the Department has considered all comments received from the public, IRRC and the Committees.

Under § 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), on these final-form regulations were deemed approved by the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. Under § 5.1(e) of the Regulatory Review Act, IRRC met on and approved the final-form regulations.

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. All comments were considered.

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

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) The order for the following amendments shall take effect upon publication in the *Pennsylvania Bulletin* for §§ 123.22, 133.23(a)(1)(i)(A), 140.41, 140.65, 141.21(e), 141.41(c), 141.41(d), 141.61(c), 153.44(b)(2)(i)(C), 165.2, 165.22, 165.31(b), (c) and (e), 165.41, 165.51, 165.52(a)(3), (c) and (d), 165.71(b), 177.21, 178.161, 181.251, 181.262, 181.287, 183.32, 183.38, 183.71, 183.81, 183.105(4)(iii), 187.25(a),

187.25(a)(3), 187.25(b), 187.26(c)(1)(i) and (iii), 187.26(c)(2)(i) and (iii), 187.26(d)(1)(i) and (iii) and Chapter 281. The following amendments will be effective retroactive to March 3, 1997 for §§ 105.1, 105.3, 105.4, 125.1, 133.23, 140.53, 140.81, 141.1, 141.21, 141.41, 141.42, 141.61, 141.71, 145.43, 151.42, 151.43, 153.42, 153.43, 153.44, 165.1, 165.11, 165.21, 165.25, 165.31, 165.52, 165.61, 165.71, 177.22, 177.24, 178.11, 178.12, 178.151, 178.165, 181.41, 181.42, 181.263, 181.273, 181.311, 183.23, 183.94, 183.96, 183.97, 187.21, 187.22, 187.23, 187.24, 187.25, and 187.26. Section 183.81(29) will be effective retroactive to October 1, 1998. Sections 153.44(d)(1)(i)(B), (ii) and (iii), 187.22 and 187.27 will be effective retroactive to July 3, 2000.

cc: Legislative Reference Bureau

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart A. ASSISTANCE POLICIES AND PROCEDURES

CHAPTER 105. SAFEGUARDING INFORMATION

§105.1. Policy.

* * * * *

(c) *General policy in the collection and use of information.* General policy in the collection and use of information is as follows:

* * * * *

(3) The Department will provide information to law enforcement officials as provided in §105.4 (relating to procedures) and information on behalf of a client REGARDING AN INDIVIDUAL under the safeguards provided in this chapter, when this information relates to a service the individual is asking for himself, or one asked for on his behalf by someone he has requested to act for him, and when the service is related to the purpose and function of the public assistance program.

* * * * *

§105.3. Requirements.

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(g) Information may be released to law enforcement officials, and the PENNSYLVANIA State Police and the Board of Probation and Parole, in compliance with State and Federal law relating to release of information as provided in §105.4 (relating to procedures).

§105.4. Procedures.

* * * * *

(c) Release of information to law enforcement officials. For applicants and recipients of TANF and GA cash assistance, the Department will comply with the following:

(1) Provide to a Federal, State or local law enforcement officer: the address of a fugitive felon, parole or probation violator ~~and the address of~~ OR an individual who may have information that the officer needs to conduct official duties if the location and apprehension of the recipient is within the official duties.

(2) Under section 414 of the Public Welfare Code (62 P. S. §414), exchange EXCHANGE information with the PENNSYLVANIA State Police and the Board of Probation and Parole to identify persons INDIVIDUALS who have been sentenced for a felony or misdemeanor and have not satisfied the penalty imposed by law to ensure that cash assistance is not granted to those persons INDIVIDUALS. The PENNSYLVANIA State Police and Board of Probation and Parole will have access to the records of the Department's Assistance Recipient Identification Program (finger-imaging file).

[(c)] (d) * * *

[(d)] (e) * * *

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[(e)] (f) * * *

* * * * *

Subpart B. INTAKE AND REDETERMINATION

CHAPTER 123. DEFINITIONS

AFDC/GA TANF/GA INTAKE AND REDETERMINATION DEFINITIONS

§123.22. Definitions.

The following words and terms, when used in this chapter and Chapters 125, and 133 AND 141 (~~relating to the application process; and redetermining eligibility~~), have the following meanings, unless the context clearly indicates otherwise:

AMR – AGREEMENT OF MUTUAL RESPONSIBILITY – A
WRITTEN INDIVIDUALIZED DOCUMENT THAT, BASED ON AN ASSESSMENT OF THE INDIVIDUAL'S SKILLS AND ABILITIES, SETS FORTH THE RESPONSIBILITIES AND OBLIGATIONS TO BE UNDERTAKEN BY THE INDIVIDUAL TO ACHIEVE SELF-SUFFICIENCY, INCLUDING PARTICIPATION IN APPROVED WORK AND WORK-RELATED ACTIVITIES. THE AMR INCLUDES THE TIME FRAMES WITHIN WHICH EACH OBLIGATION IS TO BE COMPLETED, THE PENALTIES FOR FAILURE TO COMPLY, AND THE SERVICES TO BE PROVIDED BY THE DEPARTMENT TO SUPPORT THE INDIVIDUAL'S EFFORTS.

* * * * *

~~Subpart B. INTAKE AND REDETERMINATION~~

CHAPTER 125. APPLICATION PROCESS

GENERAL PROVISIONS

§125.1. Policy.

* * * * *

(f) Signing an agreement of mutual responsibility. Each applicant for AND RECIPIENT OF cash assistance and other persons INDIVIDUALS who are required to sign an application for assistance shall be required, as a condition of eligibility, to sign a specific, individualized AN Agreement of Mutual Responsibility (AMR), AS DEFINED IN §§123.22 AND 165.2 (RELATING TO DEFINITIONS; AND DEFINITIONS) THAT MUST BE SIGNED AND APPROVED BY THE CAO. with the Department which includes the responsibilities and obligations to be undertaken by the applicant to achieve self-sufficiency, the time frames within which each obligation is to be completed and the penalties for failure to comply.

(1) The AMR shall be signed and approved by the CAO.

(g) *FAILURE TO SIGN OR COMPLETE AMR.* AN INDIVIDUAL WHO IS REQUIRED TO SIGN AN APPLICATION FOR ASSISTANCE WHO FAILS, WITHOUT GOOD CAUSE, TO SIGN OR COOPERATE IN THE COMPLETION OF AN AMR IS INELIGIBLE FOR CASH ASSISTANCE UNTIL THE INDIVIDUAL COMPLETES AND SIGNS AN APPLICATION AND APPROVED AMR.

(h) *FAILURE TO COMPLY WITH AMR.* FAILURE OF THE INDIVIDUAL TO COOPERATE WITH CHILD SUPPORT REQUIREMENTS, WITHOUT GOOD CAUSE, WILL RESULT IN THE PENALTIES DESCRIBED IN §141.21(e) (RELATING TO POLICY). WILLFUL FAILURE TO COMPLY WITH RESET PARTICIPATION REQUIREMENTS, WITHOUT GOOD CAUSE, WILL RESULT IN THE PENALTIES DESCRIBED IN §165.61 (RELATING TO SANCTIONS). FAILURE TO COMPLY WITH OTHER ASPECTS OF THE AMR, WITHOUT GOOD CAUSE, WILL RESULT IN INELIGIBILITY FOR CASH ASSISTANCE UNTIL THE INDIVIDUAL COMPLIES.

~~(2)~~ (i) *CONTENTS OF AMR.* An applicant INDIVIDUAL'S OBLIGATIONS SET FORTH IN THE AMR shall comply with the following obligations, if applicable, as provided by statute, regulation or the applicant's AMR, including the following obligations INCLUDE, BUT NOT BE LIMITED TO:

~~(i)~~ (1) Remaining REMAIN free of alcohol and illegal drugs if substance abuse is determined to be a barrier to employment.

~~(ii)~~ (2) Participate in, maintain compliance with, and satisfactorily complete a drug and alcohol treatment program approved by the Department of Health or administered by an agency of the Federal government, or both.

~~(iii)~~ (3) Provide timely and accurate information.

~~(iv)~~ (4) Cooperate in establishing paternity and obtaining support as set forth SPECIFIED in §187.23 (relating to requirements).

~~(v)~~ (5) Seek and participate in an educational program leading to a high school diploma or its equivalent, job training or work-related activities under §165.31(d) (relating to RESET participation requirements).

~~(vi)~~ (6) Seek, accept and maximize and maintain employment.

(7) accept ACCEPT referral to, participate in and continue to participate in an available work or work-related activity, whichever applies, IF APPLICABLE, including these WORK-RELATED ACTIVITIES specified on the AMR.

(8) ACCEPT REFERRAL TO, WORK IN AND RETAIN EMPLOYMENT IN WHICH THE INDIVIDUAL IS ABLE TO ENGAGE AND PARTICIPATE IN WORK ACTIVITIES SPECIFIED ON THE AMR.

(9) ~~and not~~ NOT reduce earnings WITHOUT GOOD CAUSE under §§141.41(e), 141.61(a)(1), 165.1 and 165.31.

(10) IF APPLICABLE, OBTAIN PRENATAL CARE.

(11) MAINTAIN THE HEALTH AND WELL BEING OF THE INDIVIDUAL'S CHILDREN, INCLUDING, IF APPLICABLE:

(i) ENSURING THAT CHILDREN ATTEND SCHOOL AND PURSUE A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT;

(ii) ENSURING THAT CHILDREN RECEIVE IMMUNIZATIONS, APPROPRIATE HEALTH SCREENINGS AND NECESSARY MEDICAL TREATMENT, CONSISTENT WITH NATIONALLY RECOGNIZED STANDARDS; AND

(iii) PERFORMING ANY OTHER APPROPRIATE ACTIVITY BASED ON AN ASSESSMENT OF THE EDUCATION LEVEL, PARENTING SKILLS AND HISTORY OF PARENTING ACTIVITIES AND INVOLVEMENT OF EACH PARENT WHO IS APPLYING FOR ASSISTANCE.

~~(3) A person who is required to sign an application for assistance and fails or refuses, without good cause, to sign or cooperate in the completion of an AMR shall be ineligible for cash assistance until the person completes and signs an application and approved AMR.~~

~~(4) Failure of the applicant to cooperate with child support requirements, without good cause, will result in the penalties described in §141.21(e) (relating to policy) and willful failure to comply with work and work-related requirements, without good cause, will result in the penalties described in §165.61 (relating to sanctions).~~

(j) APPROVED WORK AND WORK-RELATED ACTIVITIES. THE SPECIFIC WORK AND WORK-RELATED ACTIVITIES APPROVED FOR THE INDIVIDUAL ARE INCLUDED ON THE AMR.

[(f)] (g) (k) * * *

* * * * *

CHAPTER 133. REDETERMINING ELIGIBILITY
REDETERMINING ELIGIBILITY PROVISIONS FOR TANF/GA

§133.23. Requirements.

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

(1) *General requirements.* General requirements are as follows:

(i) A complete redetermination is a comprehensive review of eligibility factors which are subject to change, to determine continued eligibility of the budget group members.

[(A) A determination that the total gross monthly income, excluding monthly assistance payments, of the budget group does not equal or exceed the appropriate income eligibility limit in §183.71 (relating to gross income test) will be made prior to a redetermination of other eligibility and need factors described in this section.

(B)] * * *

* * * * *

~~(vi) Each recipient of cash assistance and other persons who are required to sign an application for assistance shall be required, as a condition of eligibility, to sign an Agreement of Mutual Responsibility (AMR) that includes the responsibilities and obligations to be undertaken by the recipient to achieve self-sufficiency, the time frames within which each obligation is to be completed and the penalties for failure to comply.~~

~~(A) The AMR shall be signed and approved by the CAO.~~

~~(B) A recipient shall comply with the following obligations, if applicable, as provided by statute, regulation or the recipient's AMR, including the following obligations:~~

~~(I) Remaining free of alcohol and illegal drugs if substance abuse is determined to be a barrier to employment.~~

~~(II) Participate in, maintain compliance with, and satisfactorily complete a drug and alcohol treatment program approved by the Department of Health or administered by an agency of the Federal government, or both.~~

~~(III) Provide timely and accurate information.~~

~~(IV) Cooperate in establishing paternity and obtaining support as set forth in §187.23 (relating to requirements).~~

~~(V) Seek and participate in an educational program leading to a high school diploma or its equivalent, job training, or work or work-related activities under §165.31(d) (relating to RESET participation requirements).~~

~~(VI) Seek, accept and maximize and maintain employment, accept referral to, participate in and continue to participate in an available and approved work or work-related activity, whichever applies, including those specified on the AMR, and not reduce earnings under §§141.41(e), 141.61(a)(1), 165.1 and 165.31. THE WORKER AND THE RECIPIENT OR OTHER INDIVIDUAL WILL REVIEW AND ASSESS THE PROGRESS IN ACHIEVING SELF-SUFFICIENCY, INCLUDING COMPLIANCE WITH THE RESPONSIBILITIES AND OBLIGATIONS CONTAINED IN THE EXISTING AMR. AS NECESSARY, THE AMR WILL BE MODIFIED.~~

(vii) A RECIPIENT OR OTHER INDIVIDUAL WHO SIGNS A NEW OR MODIFIED AMR THAT IS APPROVED BY THE DEPARTMENT SHALL COMPLY WITH THE OBLIGATIONS AND RESPONSIBILITIES INCLUDING APPROVED WORK AND WORK-RELATED ACTIVITIES SPECIFIED ON THE AMR IN ACCORDANCE WITH §125.1(i) (RELATING TO POLICY).

~~(G)~~ (viii) A person RECIPIENT OR OTHER INDIVIDUAL who is required to sign an application for cash assistance and fails or refuses, without good cause, to sign or cooperate in the completion of an AMR OR WHO FAILS , WITHOUT GOOD CAUSE, TO COMPLY WITH THE AMR shall be ineligible for cash assistance until the person completes and signs an approved AMR SUBJECT TO THE PENALTIES DESCRIBED IN §§125.1(g) AND (h).

~~(D) — Penalties will be applied if the recipient fails to comply with the following:~~

~~(I) — Failure to cooperate with child support requirements, without good cause, will result in the penalties described in §141.21(e) (relating to policy).~~

~~(II) — A nonexempt recipient's willful failure to comply with work or work-related requirements, without good cause, will result in the penalties described in §165.61 (relating to sanctions).~~

* * * * *

Subpart C. ELIGIBILITY REQUIREMENTS

CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS

Subchapter A. THE CATEGORICALLY NEEDY HEALTHY BEGINNINGS PROGRAM
FOR PREGNANT WOMEN AND QUALIFIED CHILDREN

* * * * *

TYPES OF INCOME NOT COUNTED

§140.41. Educational loans, and grants AND WORK-STUDY INCOME.

~~{The following types of educational loans and grants to students do not count as income when determining income eligibility:~~

(1) ~~Federal loans and grants to undergraduate students made or insured under a program administered by the Secretary of the United States Department of Education.~~ EDUCATIONAL ASSISTANCE IN THE FORM OF LOANS, GRANTS AND SCHOLARSHIPS.

(2) ~~College Work Study Program (CWSP) earnings of undergraduate students~~ WORK-STUDY INCOME.

[(3) Educational assistance from the Veterans Administration only to the extent verified as used for educational expenses.

(4) Grants and scholarships or awards from colleges, schools, or from civic, fraternal and alumni organizations, only to the extent verified as used for educational expenses.] ~~Federally-funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income, unless the assistance is provided solely to meet basic living needs.~~

* * * * *

EARNED INCOME COUNTED

* * * * *

§140.53. [Income-in-kind] (Reserved).

[Income-in-kind is shelter received by the applicant/recipient or family member in return for services rendered and is counted as earned income. The value of the income-in-kind is the difference between the amount of the monthly rent actually paid and the amount of monthly rent which the applicant/recipient or family member would have been charged if he had not rendered a service. The amount counted as income-in-kind may not exceed 1/3 of the Healthy Beginnings income limit for the recipient household.]

* * * * *

UNEARNED INCOME COUNTED

* * * * *

§140.65. ~~Educational assistance.~~ (RESERVED.)

[Educational assistance from scholarships, grants and loans not exempted in §140.41 (relating to educational loans and grants) is counted as unearned income unless the applicant/recipient verifies that the educational assistance has been, or is being, used for tuition, mandatory fees, books related to the courses of study, or child care and transportation costs--if not residing in college housing and necessary for school attendance. If one payment of educational assistance covers more than 1 month, the amount not used for verified educational expenses is averaged over the period covered by the educational assistance] ~~Federally-funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income, unless the assistance is provided solely to meet basic living needs.~~

* * * * *

INCOME DEDUCTIONS

§140.81. Deductions from earned income.

Each employed ~~person~~ INDIVIDUAL in the Healthy Beginnings family whose income is used to determine the eligibility of the budget group is entitled to the following deductions from earned income, in the following order:

(1) *Work expenses.* The first \$90 per month from the earned income of each ~~person~~ INDIVIDUAL who is employed if the employed ~~person~~ INDIVIDUAL or family member is not eligible to receive an earned income incentive deduction as described in paragraph (2) or if the \$90 per month deduction is more advantageous to the ~~applicant/recipient~~ APPLICANT OR RECIPIENT group.

(2) *Earned income incentive deductions.* [An incentive deduction to employed persons is made as follows:]

(i) [Subject to the treatment of interruptions in subparagraph (iv) and the limitation in subparagraph (v), each] Each employed ~~person~~ INDIVIDUAL in the ~~applicant/recipient~~ APPLICANT OR RECIPIENT group or family

member is eligible to receive an earned income incentive deduction [of \$30 plus 1/3 of the remainder of the earned income for 4 consecutive months after the deductions in paragraph (1)] if one of the following exists:

(A) The employed person INDIVIDUAL is a
recipient of Healthy Beginnings.

(B) The employed ~~person~~ INDIVIDUAL has been a recipient of cash assistance, NMP-MA or MNO-MA in [an AFDC-related] a TANF-related category in [one] 1 of the 4 calendar months before the date of the application for Healthy Beginnings.

[(B)] (C) The employed ~~person~~ INDIVIDUAL has been a recipient of NMP-MA or MNO-MA in a GA-related category with a child who was simultaneously a recipient of MA in [an AFDC-related] a TANF-related category in 1 of the 4 calendar months before the date of the application for Healthy Beginnings.

(ii) Each employed person INDIVIDUAL in the
applicant/recipient APPLICANT OR RECIPIENT group, including a family member who

meets one of the requirements in subparagraph (i), is eligible to receive a continuous 50% earned income incentive deduction or the first \$90 per month work expense deduction from earned income and a \$30 plus 1/3 remainder earned income incentive deduction per requirements in subparagraph (iii), whichever is most advantageous to the applicant/recipient APPLICANT OR RECIPIENT group.

(iii) The application of the \$30 plus 1/3 remainder earned income incentive deduction is treated as follows:

(A) The employed applicant/recipient APPLICANT OR RECIPIENT or family member is eligible to receive the \$30 plus 1/3 remainder earned income incentive deduction for 4 consecutive months if:

(I) Twelve consecutive months have elapsed since the employed applicant/recipient APPLICANT OR RECIPIENT has been a recipient of Healthy Beginnings or the income of the individual has not been considered when determining the eligibility of the Healthy Beginnings recipient. The count of months begins with the first month following the month of termination for Healthy Beginnings regardless of whether the employed person APPLICANT OR RECIPIENT received the entire 8 consecutive months of the \$30 income incentive deduction described in clause (B).

(II) An applicant/recipient APPLICANT OR RECIPIENT whose receipt of 4 consecutive months of the work incentive is interrupted due to loss of income or a decrease in income. The applicant/recipient APPLICANT OR RECIPIENT is eligible for a new 4 consecutive month period.

[(ii) The \$30 plus 1/3 income incentive deduction is not applied if income, after deductions for work and personal/dependent care expenses in paragraph (1), and unearned income, less appropriate deductions, is equal to, or less than 100% of the Federal Poverty Guidelines for the appropriate family size.

(iii) (B) * * *

[(A) (I) * * *

[(B) (II) * * *

[(C) (III) * * *

[(iv) An applicant/recipient whose receipt of 4 consecutive months of the work incentive is interrupted by loss of income or decrease in income is eligible for a new 4 consecutive month period.

(v) An employed person in the applicant/recipient group or family member who has received the \$30 plus 1/3 income incentive deduction for 4 consecutive months is not entitled to receive the deduction until 12 consecutive months have elapsed during which the individual has not been a recipient of Healthy Beginnings or the income of the individual has not been considered when determining the eligibility of the Healthy Beginnings recipient. The count begins with the first month following the month of termination of benefits, regardless of whether the employed person received the entire 8 consecutive months of the \$30 income incentive deduction.]

* * * * *

CHAPTER 141. GENERAL ELIGIBILITY PROVISIONS

GENERAL PROVISIONS

§141.1. Policy.

* * * * *

(b) *Type of assistance provided.* ~~A person~~ AN INDIVIDUAL may also be eligible for MA to cover health care costs. ~~A person~~ AN INDIVIDUAL may be eligible for MA in addition to one of the [Cash Assistance Programs] cash assistance programs

listed in subsection (a), or ~~a person~~ AN INDIVIDUAL may be ineligible for [Cash Assistance] cash assistance but eligible for MA. This subpart contains the eligibility requirements and procedures for [AFDC] TANF and GA [Cash Assistance] cash assistance and MA. Policies and procedures governing SBP and SSI are contained in Chapters 297 and 451 (relating to Supplemental Security Income Program; and State Blind Pension). ~~A person~~ AN INDIVIDUAL who meets the eligibility requirements of a particular type of assistance receives that type of assistance, except in the following circumstances:

* * * * *

[(5) If a person qualifies as a specified relative as defined in §151.42 of the only dependent child in the AFDC or AFDC-U budget group, the person continues to receive AFDC or AFDC-U during periods when the dependent child is under sanction due to noncompliance with Chapter 165 (relating to Employment and Training Program).]

ELIGIBILITY PROVISIONS FOR TANF/GA

§141.21. Policy.

* * * * *

(e) [The caretaker/relative who refuses to cooperate in establishing paternity or securing support, except as provided under subsection (d)(1)(i), is ineligible for assistance. Assistance for the child will be provided in the form of protective payments as provided in Chapter 291 (relating to protective and vendor payments) to assure that the child received the benefit of the payment. Because county staff persons may be used as protective payees if necessary, there should be no instance in which a child is ineligible for assistance for lack of a protective payee] Failure to cooperate in establishing paternity or obtaining support, AS SPECIFIED IN §187.23 (RELATING TO REQUIREMENTS), without good cause, will result in the reduction of the cash assistance allowance by 25%.

* * * * *

(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~~ INDIVIDUAL in securing GA, TANF, MA 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~~ BEFORE or at the time of, or subsequent to the application for assistance is ineligible for [GA] cash assistance as follows:

* * * * *

(t) [An applicant or recipient of TANF who has been convicted of violating section 481(a) of the Public Welfare Code, 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 as follows:

- (1) For 6 months from the date of first conviction.
- (2) For 12 months from the date of a second conviction.

(3) Permanently from the date of a third conviction.] An applicant or recipient is ineligible for assistance if he is a person who THE INDIVIDUAL is fleeing to avoid prosecution, or custody or confinement following conviction for a felony, or as felonies are classified in the State of New Jersey, a high misdemeanor.

(u) Cash assistance payments will not be made to a person AN INDIVIDUAL for 10 years from the date of conviction, in a Federal or State court, of fraudulent misrepresentation of residence in order to receive TANF, GA, MA, food stamps or SSI in two or more states.

ELIGIBILITY PROVISIONS FOR [AFDC] TANF

§141.41. Policy.

(a) *Conditions of eligibility.* To receive [AFDC] TANF, the applicant or recipient shall meet appropriate eligibility conditions and follow the procedures in this title. The specific eligibility conditions for [AFDC] TANF are in this part or specified in this chapter:

* * * * *

~~(c) — *Income eligibility limitation.* The applicant or recipient for AFDC is not eligible unless his total gross monthly income as defined in §183.71 (relating to gross income test) is less than the AFDC/GA income eligibility limit established for that size budget group. The budget group is determined to be ineligible for AFDC during any month in which the total gross monthly income available equals or exceeds the appropriate AFDC/GA income eligibility limit specified in §183.71.~~

~~(d) (c) * * *~~

~~* * * * *~~

~~(e) — As a condition of eligibility, nonexempt applicants and recipients are required to seek employment, accept any bona fide offer of employment and maximize and maintain employment as specified under §§165.1 and 165.31 (relating to general and RESET participation requirements). Those nonexempt individuals who are not employed for an average of at least 20 hours per week shall accept referral to, participate in and continue to participate in an available and approved work or work-related activity, whichever is applicable, including those specified on the Agreement of Mutual Responsibility, as a condition of eligibility as specified under §165.31. In addition, nonexempt individuals may not, without good cause, voluntarily terminate employment, reduce earnings or fail to apply for work.~~

(f) (d) *TIME LIMITS.* ~~A AN ELIGIBLE family is ineligible for~~ MAY RECEIVE TANF ~~cash assistance payments if it includes an adult who has received~~ FOR A MAXIMUM OF ~~60 months of TANF cash assistance.~~ SUBJECT TO THE FOLLOWING CONDITIONS AND EXCEPTIONS:

(1) A FAMILY IS INELIGIBLE FOR TANF ASSISTANCE IF IT INCLUDES AN ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD WHO HAS RECEIVED 60 MONTHS OF TANF ASSISTANCE.

(2) UNDER THIS SUBSECTION, A FAMILY DOES NOT INCLUDE A SPECIFIED RELATIVE WHO IS NOT INCLUDED IN THE TANF MANDATORY FILING UNIT AS SPECIFIED IN §171.21 (RELATING TO POLICY) AND IS SEEKING TANF ASSISTANCE ONLY FOR THE MINOR CHILD.

~~(1)~~ (3) TANF ~~Assistance~~ ASSISTANCE received as a minor child is DOES not counted COUNT toward TOWARDS the 60-month limit EXCEPT TANF RECEIVED AS A MINOR CHILD HEAD OF HOUSEHOLD OR AS A MINOR CHILD MARRIED TO THE HEAD OF HOUSEHOLD.

~~(2) Assistance received as a minor child head of household or as a minor child married to the head of household counts toward the 60-month limit.~~

~~(3)~~ (4) Periods of receipt of DURING WHICH TANF ASSISTANCE IS RECEIVED need not be consecutive to count toward TOWARDS the 60-month limit.

(5) NOTHING IN THIS SUBSECTION SHALL PRECLUDE THE DEPARTMENT FROM PROVIDING TANF ASSISTANCE TO A FAMILY WHICH DOES NOT COUNT TOWARDS OR MAY EXTEND BEYOND THE 60-MONTH TIME LIMIT.

(6) THE FOLLOWING ARE NOT CONSIDERED TANF "ASSISTANCE RECEIVED" IN CALCULATING AN INDIVIDUAL'S 60 MONTHS OF TANF ELIGIBILITY:

(i) A PERIOD OF ZERO CASH ISSUANCE.

(ii) ASSISTANCE WHICH HAS BEEN FULLY REIMBURSED.

(iii) ASSISTANCE REPAID DUE TO COLLECTION OF AN OVERPAYMENT.

(iv) BENEFITS ISSUED BUT NOT RECEIVED BY THE INDIVIDUAL AND THE BENEFITS ARE NOT REPLACED.

(v) A PERIOD WHEN AN INDIVIDUAL OR BUDGET GROUP IS UNDER SANCTION AND, AS A RESULT, NO ASSISTANCE BENEFITS ARE ISSUED.

(vi) AN EMERGENCY SHELTER ALLOWANCE (ESA) PAYMENT.

(vii) A PERIOD OF INTERIM BENEFITS RECEIVED UNDER §275.4(d) (RELATING TO PROCEDURES) WHEN A FINAL DECISION HAS NOT BEEN HANDED DOWN BY THE BUREAU OF HEARINGS AND APPEALS WITHIN THE APPROPRIATE TIME LIMIT AND THE BUDGET GROUP'S APPEAL IS EVENTUALLY DENIED.

(7) NOTHING IN THIS SUBSECTION WILL BE INTERPRETED AS REQUIRING THE DEPARTMENT TO PROVIDE OR CONTINUE TO PROVIDE TANF ASSISTANCE WHICH DOES NOT COUNT TOWARD OR MAY EXTEND BEYOND THE 60-MONTH LIMIT.

(8) TIME-OUT BENEFITS PROVIDED UNDER CHAPTER 281 (RELATING TO TIME-OUT BENEFITS) ARE NOT COUNTED TOWARDS THE 60-MONTH TIME LIMIT.

§141.42. 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 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.

Cash assistance allowance--The monthly family size allowance, reduced by the net income of the budget group. The family size allowance is described under §175.23(a) (relating to requirements).

Family—EXCEPT AS PROVIDED IN §141.41(d)(2) (RELATING TO POLICY), ~~A A minor child and his parent or adult specified relative, as defined in §151.42 (relating to definitions), with whom the child lives. A specified relative is considered a member of a family regardless of whether the specified relative is included in the TANF application or is applying only on behalf of the minor child.~~

Minor child--An individual who ~~has not attained~~ IS UNDER 18 years of age, or who has not attained IS UNDER 19 years of age and who is a full-time student in a secondary school--or in the equivalent level of vocational or technical training.

* * * * *

ELIGIBILITY PROVISIONS FOR GA

§141.61. Policy.

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

(1) ~~A person~~ AN INDIVIDUAL is eligible for GA under the requirements established in subsection (d) and if the appropriate eligibility conditions in the following chapters are met:

* * * * *

~~(xv) As a condition of eligibility, nonexempt GA applicants and recipients are required to seek employment, accept any bona fide offer of employment and maximize and maintain employment as specified under §§165.1 and 165.31 (relating to general, and RESET participation requirements). Those nonexempt individuals who are not employed for an average of at least 20 hours per week shall accept referral to, participate in and continue to participate in an available and approved work or work-related activity, whichever is applicable, including those specified on the Agreement of Mutual Responsibility, as a condition of eligibility, as specified under §165.31. In addition, nonexempt individuals may not, without good cause, voluntarily terminate employment, reduce earnings or fail to apply for work.~~

* * * * *

~~(c) Income eligibility limitation. The applicant or recipient for GA is not eligible unless his total gross monthly income as defined in §183.71 (relating to gross income test) is less than the AFDC/GA income eligibility limit established for that size budget group. The budget group is determined to be ineligible for GA during any month in which the total gross monthly income available equals or exceeds the appropriate AFDC/GA income eligibility limit specified in §183.71.~~

~~(d) (c) * * *~~

* * * * *

ELIGIBILITY PROVISIONS FOR MA FOR THE CATEGORICALLY NEEDY

§141.71. Policy.

(a) *Conditions of eligibility.* To be eligible for MA, the ~~person~~ INDIVIDUAL shall meet the appropriate conditions of eligibility in the following chapters:

* * * * *

(10) Chapter 151 (relating to specified relatives).

(b) *Nonmoney payment recipients.* Title XIX of the Social Security Act (42 U.S.C.A. §§1396--1396q) provides that the benefits of the MA program available to money payment recipients shall be available to the following ~~persons~~ INDIVIDUALS [:] described in paragraphs (1)--(5) (6). ~~The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the act of August 22, 1996 (Pub. L. No. 104-193, 110 Stat. 2105) provides that the benefits of the MA program are provided to persons described in paragraph (6):~~

* * * * *

(6) ~~Applicants/recipients~~ APPLICANTS OR RECIPIENTS WHO WOULD BE ~~determined ineligible~~ ELIGIBLE ~~for cash assistance due to~~ BUT FOR the elimination of the \$30 plus 1/3 remainder of the earned income incentive deduction for 4 consecutive months or the \$90 work expense deduction, or both IN ACCORDANCE WITH §181.311(2)(ii) (RELATING TO DEDUCTIONS FROM EARNED INCOME FOR THE TANF CATEGORIES OF NMP-MA).

~~(6) (7)~~ The ~~persons~~ INDIVIDUALS described in paragraphs (1)-- [(5)] (6) will be designated as categorically needy--nonmoney payment recipients (NMP, Category Symbol P).

* * * * *

CHAPTER 145. AGE
AGE PROVISIONS FOR [AFDC] TANF

* * * * *

§145.43. Requirements.

(a) *General.* The following [will constitute] are the general [AFDC] TANF age requirements:

(1) The child shall conform with one of the following age requirements:

* * * * *

(ii) Be under [age 19 if] 18 years of age or under 19 years of age and a full-time student in a secondary school or in the equivalent level of [a] vocational or technical [school and reasonably expected to complete the program before age 19] training.

* * * * *

CHAPTER 151. SPECIFIED RELATIVES

SPECIFIED RELATIVES PROVISIONS FOR [AFDC] TANF

* * * * *

§151.42. Definitions.

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

Adult--An individual who is 19 years of age or older or who is 18 years of age and not a full-time student in a secondary school or in the equivalent level of vocational or technical training.

Specified relative--[One] An adult or a minor parent who is exempt, under §141.21(†) (q) (relating to policy), from the requirements to live with an adult and who conforms with the following:

* * * * *

§151.43. Requirements.

* * * * *

(d) *Temporary absence of the child or relative.* The temporary absence of either the child or the relative from his home will not affect the eligibility of the child for [AFDC] TANF under the following circumstances:

(1) The absence of the child is not more than or expected to be more than 180 consecutive days. A specified relative MUST REPORT THE ABSENCE OF A MINOR CHILD BY THE END OF THE 5-DAY PERIOD THAT BEGINS WITH THE

DATE THAT IT BECOMES CLEAR TO THE SPECIFIED RELATIVE THAT THE MINOR CHILD WILL BE ABSENT BEYOND THE CONSECUTIVE 180-DAY PERIOD. A SPECIFIED RELATIVE who fails to report within 5 days of the time it becomes clear TO THE SPECIFIED RELATIVE that a minor child will be absent beyond the consecutive 180-day period will be ineligible for assistance for 30 days.

(2) The absence does not basically affect the responsibility of the relative for the care and control of the child. However, if the child is living in a school to which the relative has had to turn over control of the child, ~~he~~ THE RELATIVE will not be eligible for [AFDC] TANF.

[(2)] (3) * * *

* * * * *

(f) *Pregnant women.* A pregnant woman with no children or with children who are not receiving [AFDC] TANF may qualify for [AFDC] TANF for herself only as a specified relative if all of the following apply:

* * * * *

(2) [Delivery is expected no later than 3 months after the month of payment.

(3)] The fetus, if born, would be eligible for [AFDC] TANF based on the criteria [set forth] in §153.43(a) (relating to [AFDC] TANF deprivation of support or care requirements).

* * * * *

CHAPTER 153. DEPRIVATION OF SUPPORT OR CARE
DEPRIVATION OF SUPPORT OR CARE
PROVISIONS FOR [AFDC] TANF

* * * * *

§153.42. Definitions.

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

Cash assistance allowance—It is the THE monthly family size allowance, reduced by the net income of the budget group. The family size allowance is described under §175.23(a) (relating to requirements).

* * * * *

§153.43. [AFDC] TANF deprivation of support or care requirements.

(a) *General.* If a child is living with both of his natural parents, the incapacity of either parent is the eligibility factor for [AFDC] TANF. If a child has been legally adopted, it is his lack of the support or care of the adoptive parent, and not of the natural parent, that is the eligibility factor for [AFDC] TANF. If a child is living with a parent and a stepparent, lack of support or care by the natural parent is the eligibility factor for [AFDC] TANF. Deprivation of support is not considered to exist in situations where the mother and the putative father of a child born out-of-wedlock are living together with the child and paternity has been established. For ~~Public Assistance~~ PUBLIC ASSISTANCE purposes, this is an intact family. The CAO documents a putative father's claim of paternity for a child born out-of-wedlock who was born within this Commonwealth on an Acknowledgement of Paternity form (~~H405-181~~) under

§153.44(e)(1) (relating to procedures). In instances where the putative father claims paternity of a child who was born out-of-State, the CAO refers the putative father to the DRS to file a DRS Voluntary Statement of Paternity form in accord with §153.44(e)(2). In situations where the putative father living with the child denies paternity, [AFDC] TANF may be established based on the absence of the child's legal parent if all other eligibility requirements are met. A child is considered deprived of parental support or care if at least one parent is one of the following:

* * * * *

(d) *Unemployment of the parent.* The lack of parental support or care for the child because of unemployment refers to the employment status of the parent who is the principal wage earner. The unemployment of the principal wage earner parent, as defined in SPECIFIED IN §153.44(d), will establish the [AFDC-CU] TANF category for the needy child regardless of the extent to which the other parent is employed.

§153.44. Procedures.

(a) *Absence from the home.* The following procedures relate to absence from the home:

(1) [The Federal Social Security Act (42 U.S.C.A. §602(a)(8)(D)(ii)) requires "prompt notice to the State Support Collection Agency of the furnishing of AFDC in respect to a child who has been deserted or abandoned by a parent, including a child born out-of-wedlock without regard to whether paternity of such child has been established."

(2) A child who has been "deserted or abandoned by a parent" means any child whose eligibility for AFDC is based on continued absence of the parent from the home.] "Continued absence" will be considered to exist whenever the parent is a convicted offender permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday.

[(3)] (2) When the eligibility of a child for [AFDC] TANF is based on deprivation due to "continued absence," the Application for Support Services form will be completed at the time assistance is authorized for the child and forwarded to the Bureau of Claim Settlement Child Support Liaison Agent assigned to the CAO for processing as ~~set forth in~~ SPECIFIED IN paragraph (1). [See §187.24(b)(2) (relating to procedures) for instructions on completion and distribution of the Application for Support Services form.

(4)] (3) * * *

[(5)] (4) * * *

[(6)] (5) * * *



[(7)] (6) Whenever ~~it is found~~ THE CAO FINDS that a parent is absent from the home, and not for one of the specific reasons listed in paragraph (6)(5), FOR PURPOSES OF ELIGIBILITY FOR TANF, there must be evidence, ~~for purposes of eligibility for [AFDC] TANF,~~ that temporarily or permanently he THE PARENT is not taking responsibility for the support, care or guidance of the child.

[(8)] (7) * * *

[(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) For requirements relating to establishing paternity and securing support [expected] from a putative father or from parents who are absent from the home [and for appropriate use of the court], see Chapter 187 (relating to support from relatives not living with the client).

(b) *Locating absent parents.* Procedures are as follows:

* * * * *

(2) When a parent is absent from the home, the first step in exploring the resource that such parent represents to the [AFDC] TANF child or children will be to locate the parent. The purposes of location are to reunite the family where feasible, and to obtain support so far as possible.

(i) *Referral to County Domestic Relations Section for support services.* Referral to the Domestic Relations Section (DRS) will occur under the following circumstances:

(A) If the eligibility of a child for [AFDC] TANF is based on deprivation due to absence of a parent from the home, each applicant or recipient ~~caretaker/relative~~ CARETAKER RELATIVE with whom the child is living will be referred, ~~prior to~~ [the application interview] BEFORE authorization, to the DRS as set forth SPECIFIED in §[187.23(a)(1)(i)] 187.23(d) (relating to requirements).

* * * * *

(C) If the [caretaker/relative] applicant/recipient APPLICANT OR RECIPIENT fails to comply with cooperation requirements [, the Form PA 162-A (Advance Notice)] without good cause, an advance A notice will be provided ~~to the~~ [client to initiate protective payment provisions] NOTIFYING THE individual notifying him of a reduction in the cash assistance allowance by 25% effective 10 days from the date of the notice. At the expiration of the 10-day period, [assistance will then be continued for the AFDC child or children in the form of a protective payment as provided in Chapter 291 (relating to protective and vendor payments)] the CAO shall WILL impose the cash assistance allowance reduction unless a timely appeal is filed in the case of BY a recipient.

* * * * *

(c) *Procedures relating to determining incapacity or impairment.* The following procedures relate to the determination of incapacity or impairment:

(1) *Incapacity.* The incapacity must be proved. If the necessary data is not already available in the case record or from the parent, the County Office will ~~help him, if he wants help,~~ PROVIDE HELP, IF REQUESTED, to get the necessary verification. If the services of a competent authority are not available without cost, the County Office will authorize a medical examination. If capacity of either parent cannot be determined from the available information, the County Office will make a preliminary decision regarding the incapacity. If the decision is that a parent appears to be incapacitated, and if the grant group meets the other [AFDC] TANF eligibility requirements, the County Office will authorize [AFDC] TANF presumptively as provided in Chapter 227 (relating to central office disbursement). When there is a question of incapacity, the ~~client~~ INDIVIDUAL must cooperate with the County Office in providing verification of incapacity as a condition of eligibility for the family. To prove incapacity, ~~there must be an impairment which is~~ expected to last at least 30 days ~~and is~~ MUST BE verified by competent medical information, such as the following:

* * * * *

(d) *Procedures relating to the unemployed principal wage earner parent.* The following procedures relate to AN unemployed parents PARENT determined to be the principal wage earner:

(1) *General.* The following is a general statement relating to the principal wage earner parent:

(i) The principal wage earner is an employable parent in a home in which both parents of a dependent child reside, who earned the greater amount of income in the 24-month period immediately preceding the month in which application for assistance is made. If both parents earned an identical amount of income in the 24-month period, the principal wage earner shall be IS that parent who earned the greater amount of income in the last 6 months of the 24-month period. If both parents earned an identical amount of income in the 6-month period, either parent may be designated the principal wage earner. The principal wage earner parent shall meet the conditions in this subparagraph on the effective date of the initial authorization as FOR [AFDC-CU or AFDC] TANF. The conditions are as follows:

* * * * *

~~(B)~~—The principal wage earner parent has been unemployed for at least 30 days.

~~(C)~~(B) * * *

~~(D)~~(C) * * *

~~(E)~~(D) A nonexempt parent is enrolled SHALL PARTICIPATE in the [ETP] RESET as provided in Chapter 165 (relating to [employment and training program] road to economic self-sufficiency through employment and training (RESET) program).



~~(F)~~(E) * * *

* * * * *

(ii) Unemployment is defined as: having no work, having part-time work IN WHICH THE NET INCOME, AFTER ALLOWABLE DEDUCTIONS UNDER §§183.94 AND 183.98 (RELATING TO ELIGIBILITY FOR TANF EARNED

INCOME DEDUCTIONS; AND UNEARNED INCOME AND LUMP SUM INCOME DEDUCTIONS) IS LESS THAN THE FAMILY SIZE ALLOWANCE FOR THE BUDGET GROUP, AS DEFINED IN §168.2 (RELATING TO DEFINITIONS) or having "on-the-job" training in a project that is approved or recommended by the JS or the [ETP] RESET.

* * * * *

~~(iii) Part time employment is less than 100 hours a month.~~

~~A principal wage earner parent who is employed more than 100 hours in a particular month is considered to be employed part-time, provided that the work of the parent is intermittent, that the parent worked less than 100 hours in the preceding 2 months, and that the parent is expected to work less than 100 hours in the next month. A principal wage earner parent who is fully employed but is not earning enough to support self and dependents is not considered unemployed; but a principal wage earner parent who is in an on-the-job training project, even though the training meets the definition of full-time employment, is considered unemployed.~~

~~(iv)(iii) * * *~~

(v)(iv) The family will be ineligible for [AFDC-CU] TANF with respect to any week for which the principal wage earner parent qualifies for unemployment compensation under an unemployment compensation law of a state or of the United States but refuses to apply for or accept the unemployment compensation.

[(vi) Both parents in the budget group will be ineligible for AFDC-U whenever a parent willfully fails to comply with ETP requirements. If the other parent agrees to participate in the ETP, the sanctions will only be imposed on the noncooperating parent.]

(2) *Work record requirement.* Eligibility for [AFDC-CU] TANF depends on the unemployed principal wage earner parent having had a work record. A work record shall be proved. To prove a work record, there shall be evidence that the principal wage earner parent meets one of the following conditions:

* * * * *

(ii) The parent ~~had~~ worked for 6 or more calendar quarters in a 13-calendar quarter period ending within the 12-month period ~~prior to~~ BEFORE the date of THE application. Activities as specified in clauses (D) and (E) may

be used to qualify for no more than 4 of the required 6 calendar quarters. In a calendar quarter, which is defined as a period of 3 consecutive calendar months ending on March 31, June 30, September 30 or December 31, the parent shall have:

* * * * *

(B) Participated in a community work and training program; which means programs of a constructive nature, encouraging the conservation of work skills and the development of new skills for individuals who ~~have attained the age of~~ ARE AGE 18 OR OLDER and are receiving [AFDC] TANF and under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, or any other work and training program under governmental auspices.

(C) Participated in the Work Incentive Program before October 1, 1989, or in ~~the~~ ETP or RESET on or after October 1, 1989, while receiving AFDC or TANF.

* * * * *

(3) *Transfers between CU and C grant groups.* Transfers

between CU and C grant groups will be governed by the following:

(i) CU grant groups will be transferred to C if deprivation occurs for reasons other than the unemployment of the principal wage earner parent. Similarly, C grant groups will be transferred to CU if deprivation no longer exists except: for the unemployment of the principal wage earner parent as ~~set forth in~~ SPECIFIED IN §153.43(d) (relating to [AFDC] TANF deprivation of support or care requirements).

* * * * *

(e) *Procedures relating to the Acknowledgement of Paternity form.* In cases where assistance is ~~requested/received~~ REQUESTED OR RECEIVED on behalf of a child born out-of-wedlock, the CAO ~~explores~~ WILL EXPLORE with the ~~caretaker/relative~~ CARETAKER RELATIVE the putative father's willingness to sign an Acknowledgment of Paternity form.

(1) For children born in this Commonwealth, the following procedures apply:

(i) The Acknowledgment of Paternity form [(H105.181)]

is used to establish paternity of a child born out-of-wedlock in cases where assistance is requested/received REQUESTED OR RECEIVED on behalf of a child born out-of-wedlock and the putative father voluntarily consents to establishing a claim of paternity by signing the form. The following procedures apply:

(A) When the putative father establishes a claim of paternity by signing the form, the worker also obtains the mother's signature on the form [and both signatures on the completed Acknowledgement of Paternity form are notarized by the CAO. If the CAO does not have a notary, the CAO will give the Acknowledgement of Paternity form (H105.181) to the mother and putative father with instructions to have the form notarized and return it to the CAO]. To be valid, the signatures of the mother and putative father shall be witnessed by a third party. The third party may not be the mother or the putative father. The CAO forwards the [notarized] form to:

THE PARENT LOCATOR SERVICE SECTION
CHILD SUPPORT PROGRAMS OFFICE
POST OFFICE BOX 8018
HARRISBURG, PENNSYLVANIA 17105

(B) Upon completion COMPLETING and forwarding of the [notarized] form to the Parent Locator Service Section, the CAO considers WILL CONSIDER the putative father as an LRR to the child. The CAO applies WILL APPLY appropriate LRR regulations.

* * * * *

CHAPTER 165. [EMPLOYMENT AND TRAINING PROGRAM] ROAD TO ECONOMIC
SELF-SUFFICIENCY THROUGH EMPLOYMENT AND TRAINING (RESET)
PROGRAM
GENERAL RESET PROVISIONS

§165.1. General.

(a) A recipient who is not exempt shall ~~be enrolled~~ PARTICIPATE in the [ETP] ~~Road to Economic Self-Sufficiency Through Employment and Training (RESET) Program~~ RESET. An exempt individual may volunteer to ~~be enrolled~~ PARTICIPATE in [the ETP] RESET. [A recipient] ~~Applicants and recipients shall be informed~~ THE CAO WILL INFORM AN APPLICANT AND RECIPIENT of THE rights and responsibilities, AND services and benefits available to RESET participants ~~in the Program~~. [Enrollees may volunteer to participate in the ETP. Volunteers, whether

exempt or nonexempt, will be given the highest priority for services to the extent that resources permit.] A RECIPIENT'S ABILITY TO MEET RESET PARTICIPATION REQUIREMENTS WILL BE ASSESSED AFTER CONSULTATION WITH THE RECIPIENT. ~~Nonexempt applicants~~ APPLICANTS AND RECIPIENTS shall agree to comply with the requirements of RESET THIS CHAPTER. and nonexempt recipients will be required to participate in RESET and to seek employment, accept any bona fide offer of employment and maximize and maintain employment as required by §§141.41, 141.61, 165.31 and 165.61. In addition, nonexempt recipients shall accept referral to participate in and continue to participate in an available and approved work or work-related activity, whichever is applicable, including those specified on the AMR, as required in §§141.41, 141.61, 165.31 and 165.61. Nonexempt recipients also may not voluntarily terminate employment, reduce earnings or fail to apply for work, as required in §§141.41, 141.61, 165.31 and 165.61.

(b) [The ETP] The Department will provide Program RESET participants, to the extent necessary, with case management and approved supportive services AS MAY BE NECESSARY TO SUPPORT PARTICIPANTS IN BECOMING SELF-SUFFICIENT. In addition, participants will be provided with or referred to education, training and employment-related activities designed to break the cycle of

welfare dependency. [The ETP] To the extent it deems possible, the Department will identify and promote resources in the public and private sectors that [will] may assist participants to prepare for and obtain employment in jobs they may realistically be expected to obtain.

(c) THE DEPARTMENT MAY, IN ITS DISCRETION, PROVIDE EMPLOYMENT, EDUCATION, TRAINING, WORK-RELATED ACTIVITIES OR WORK EXPERIENCE PROGRAMS TO APPLICANTS OR RECIPIENTS. NOTHING IN THIS CHAPTER SHALL BE INTERPRETED AS REQUIRING THE DEPARTMENT TO DEVELOP OR TO OFFER OR TO CONTINUE TO OFFER SUCH EMPLOYMENT, EDUCATION, TRAINING, WORK-RELATED ACTIVITIES OR WORK EXPERIENCE PROGRAMS.

§165.2. Definitions.

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

~~[EDP] AMR--~~[Employment Development Plan] Agreement of Mutual Responsibility--A WRITTEN ~~noncontractual~~ INDIVIDUALIZED agreement DOCUMENT THAT, ~~completed by the [client] applicant/recipient and the [employment and training worker] Department, which, among other things, establishes an individual employment goal with specific time frames and work and work-related activities to achieve the goal~~ BASED ON AN ASSESSMENT OF THE INDIVIDUAL'S SKILLS AND ABILITIES, SETS FORTH THE RESPONSIBILITIES AND OBLIGATIONS TO BE UNDERTAKEN BY THE INDIVIDUAL TO ACHIEVE SELF-SUFFICIENCY, INCLUDING PARTICIPATION IN APPROVED WORK AND WORK-RELATED ACTIVITIES. THE

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AMR INCLUDES THE TIME FRAMES WITHIN WHICH EACH OBLIGATION IS TO BE COMPLETED, THE PENALTIES FOR FAILURE TO COMPLY, AND THE SERVICES TO BE PROVIDED BY THE DEPARTMENT TO SUPPORT THE INDIVIDUAL'S EFFORTS.

~~(i) — The AMR, together with statutory and regulatory requirements, set forth work-related, work, and other requirements for cash assistance eligibility.~~

~~(ii) — The AMR [and] describes services to be provided by the Department and the activities to be undertaken by the recipient.~~

~~(iii) — The AMR may also contain agreements that are unrelated to RESET as described in §125.1(f) (relating to policy).~~

APPROPRIATE CHILD CARE—SERVICES OPERATING IN ACCORDANCE WITH APPLICABLE STATE REGULATIONS FOR CHILD DAY CARE CENTERS, GROUP DAY CARE HOMES AND REGISTERED FAMILY DAY CARE. THE TERM ALSO INCLUDES INFORMAL CARE PROVIDED IN THE CHILD'S HOME OR THE HOME OF THE CAREGIVER.

Bona fide offer of employment--To be considered a bona fide offer of employment, there must be reasonable assurances that:

(i) Appropriate standards for the health, safety, minimum wage and other conditions applicable to the performance of work and training in the employment are established and will be maintained.

(ii) The employment will not result in any displacement of employed workers and with respect to that employment, the conditions of work, training, education and employment are reasonable in light of factors such as the type of work, geographical region, and proficiency of the participant.

(iii) The employment is not available due to a labor dispute, strike or lock-out.

EDP—EMPLOYMENT DEVELOPMENT PLAN—AN
INDIVIDUALIZED AGREEMENT WITH THE DEPARTMENT THAT IS COMPLETED BY THE FOOD STAMP RECIPIENT AND IS BASED ON THE INDIVIDUAL'S SKILLS AND ABILITIES. AN EDP SETS FORTH AN EMPLOYMENT GOAL WITH RESPONSIBILITIES AND OBLIGATIONS TO BE UNDERTAKEN BY THE INDIVIDUAL

TO ACHIEVE THAT GOAL AND THE TIME FRAMES WITHIN WHICH EACH OBLIGATION IS TO BE COMPLETED. FURTHER, THE EDP DESCRIBES SERVICES TO BE PROVIDED BY THE DEPARTMENT.

~~[ETP--Employment and Training Program--A program operated by the Department consisting of one or more work, training, education, work experience or job search activities.]~~

~~Enrollment--The process used to designate that an individual is eligible to become a participant in [the ETP] RESET.~~

~~Exempt--Individuals who are not required to be enrolled in COMPLY WITH [the ETP] RESET PARTICIPATION REQUIREMENTS, AS SPECIFIED IN §165.21 (RELATING TO EXEMPTIONS FROM RESET PARTICIPATION REQUIREMENTS).~~

* * * * *

~~Grant diversion--The use of all or a portion of a recipient's cash assistance grant and food stamps as a wage supplement to an employer.~~

~~Maximize employment--The requirement to participate in as many hours of employment as may actually be available, up to full-time employment or self-sufficiency, if the individual reasonably can do so.~~

~~Noncompliance--The willful failure or refusal without good cause to comply with the requirements in this chapter.~~

~~[Nonexempt volunteer--A recipient who is not exempt from ETP enrollment and volunteers to participate in an ETP activity before being required to do so.]~~

* * * * *

~~REASONABLE DISTANCE-- UP TO 2 HOURS TRAVEL TIME ROUND TRIP FROM HOME TO THE WORK SITE, INCLUDING TRAVEL TIME TO THE CHILD OR ADULT CARE PROVIDER, BY REASONABLY AVAILABLE PUBLIC OR PRIVATE TRANSPORTATION.~~

~~RESET--Road to Economic Self-Sufficiency Through Employment and Training--A program operated by the Department, within the constraints of available funds, to enable recipients of cash assistance to secure permanent full-time unsubsidized jobs, entry level jobs or part-time jobs which can establish a work history, preferably in the private sector, with wages and benefits that lead to economic independence and self-sufficiency as soon as practicable.~~

* * * * *

[VERIFICATION]**§165.11. [Verification of exemption] (Reserved).**

(a) The recipient is required to cooperate in providing necessary information and verification regarding exemption from enrollment in the ETP. The CAO will assist a person in obtaining verification when help is needed.

(b) Verification of an exemption consists of reasonably available documentation specified by the Department and includes documents containing the person's date of birth, such as birth certificates or baptismal records, pay stubs, written statements from physicians, licensed psychologists, chiropractors, school officials or employers that support the person's claim for an exemption. Failure to verify the claim for an exemption will result in the person being enrolled in the ETP unless the person has cooperated and verification is unavailable or unless it is clear that the person is exempt. A person will not be required to verify information that was previously verified and is not subject to change.]

ENROLLMENT AND EXEMPTIONS FROM ENROLLMENT RESET PARTICIPATION
REQUIREMENTS

§165.21. ~~Enrollment~~ EXEMPTIONS FROM RESET PARTICIPATION
REQUIREMENTS.

(a) ~~A person's~~ AN INDIVIDUAL'S exemption status is reviewed when a change is reported that would affect ~~a person's~~ THE INDIVIDUAL'S [ETP] RESET EXEMPTION status, when a condition is expected to change and at each reapplication interview. The ~~recipient~~ INDIVIDUAL is notified in writing of changes in exemption status.

(b) ~~A person~~ AN INDIVIDUAL who is exempt may volunteer to participate in [the ETP] RESET.

(c) ~~A recipient will be enrolled~~ AN INDIVIDUAL SHALL PARTICIPATE in [ETP] RESET unless THE INDIVIDUAL ESTABLISHES GOOD CAUSE UNDER §165.52 (RELATING TO GOOD CAUSE) OR the ~~person~~ INDIVIDUAL is exempt. ~~because the person~~ AN INDIVIDUAL MAY BE EXEMPT IF THE INDIVIDUAL is one of the following:

(1) [Ill or incapacitated to the extent that the person is prevented from engaging in employment or training when determined on the basis of medical evidence acceptable to the Department or CAO worker's observation] Mentally or physically disabled, as verified by a physician or licensed psychologist, and the disability temporarily or permanently precludes any form of employment or work-related activity.

(i) An exemption period for recuperation after childbirth is determined by a physician [,] or licensed psychologist [or licensed midwife].

* * * * *

(iii) The Department may require an applicant or recipient with a verified temporary mental or physical disability, including drug or alcohol dependency, to pursue appropriate treatment as a condition of receiving assistance if the individual is exempt from the RESET Program.

(iv) The Department may require an applicant or recipient to submit to an independent examination as a condition of receiving assistance if the individual is exempt from the RESET Program.

(2) [Sixty years of age or older.

(3) Incapacitated due to drug or alcohol dependency.

(i) A person claiming this exemption shall accept available and appropriate treatment and rehabilitation services as a condition of eligibility for PA benefits.

(ii) The exemption will continue until treatment is completed or until there is notification that the individual did not accept available and appropriate treatment or failed to complete a prescribed treatment plan.

(iii) Upon notification that an individual failed to cooperate, a determination of good cause will be made. If there is not good cause, the individual will lose exempt status for the ETP.

(4) Needed in the home because of the illness or incapacity of another member of the household.

(5) The parent or other [caretaker/relative] caretaker who is personally providing care for a child [2] under 6 years of age [or younger, except as provided in subsection (d)] for whom AN alternate child care arrangement is unavailable.

[(6) The parent or other caretaker/relative who is personally providing care for a child 3 years of age or older and 5 years of age or younger unless appropriate, available child care is guaranteed and participation in the ETP is limited to 20 hours or less a week, except as provided in subsection (d).

(7) Working at least 30 hours a week.

(8) (3)A child who is [15] under 18 years of age AND [or younger or attends, full time, an elementary, secondary, vocational or technical school, except that a child who had previously withdrawn and has been placed in a secondary, vocational or technical school as a required ETP activity is not exempt]. The child of school age is required to pursue PURSUING a high school diploma or a certificate of high school equivalency.

[(9) (4)[Pregnant if it has been medically verified that the child is expected to be born within the 6-month period immediately following the month of required participation] The custodial parent in a one-parent household who is caring for a child who has not attained IS UNDER 12 months of age. This exemption is limited to a maximum of 12 months in the parent's lifetime.

[(10) A full-time volunteer serving in the Volunteers In Service To America (VISTA) Program, under Title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C.A. §§4951–4994).

(11) Residing in a location which is more than 2 hours round-trip by reasonably available public or private transportation from an ETP site except that a parent in the AFDC-U category who is exempt under this paragraph and who does not choose to volunteer to participate in the ETP shall register directly with JS within 15 working days following the date of initial authorization or reapplication.

(d) A custodial parent who is 16 years of age or older and under 20 years of age who has not attained a high school education or its equivalent is required to participate regardless of the age of the child if appropriate, available child care is guaranteed.]

§165.22. Verification of exemption.

(a) *NEED FOR VERIFICATION.* The applicant or recipient is required to SHALL cooperate in providing necessary information and verification regarding the basis for exemption.

(1) The CAO will MAY assist an individual in obtaining verification when help is needed.

(1) (2) The Department may require an applicant or recipient claiming an exemption based on a physical or mental disability which temporarily or permanently precludes any form of employment or work-related activity to submit to an independent examination as a condition of receiving assistance, as specified in §141.61 (relating to policy) if the individual is exempt from the RESET Program.

(2) (3) An applicant or recipient with a verified physical or mental disability which temporarily precludes any form of work or work-related activity shall pursue appropriate treatment to restore or improve the individual's ability to work, as a condition of receiving assistance as specified in §141.61, if THE INDIVIDUAL IS exempt from the RESET Program.

(4) AN INDIVIDUAL IS NOT REQUIRED TO VERIFY INFORMATION THAT WAS PREVIOUSLY VERIFIED AND IS NOT SUBJECT TO CHANGE.

(b) *TYPES OF VERIFICATION.* Verification of an exemption consists of reasonably available documentation specified by the Department and includes birth certificates or baptismal records, written statements from physicians, licensed psychologists or school officials that support the person's INDIVIDUAL'S claim for an exemption.

(1) The verification of a physical or mental disability shall be established on a form specified by the Department and will SHALL be based on acceptable clinical and laboratory diagnostic techniques rather than on the applicant's or recipient's statement of symptoms.

(2) Failure IF THE INDIVIDUAL FAILS to verify the claim for an exemption, will result in the person INDIVIDUAL being enrolled SHALL PARTICIPATE in RESET unless the person INDIVIDUAL has cooperated IN SEEKING VERIFICATION and verification is unavailable.

(3) A person will not be required to verify information that was previously verified and is not subject to change.

(c) *EXPIRATION OF EXEMPTION.* THE CAO WILL NOTIFY THE EXEMPT INDIVIDUAL IN WRITING WHEN THE PERIOD OF EXEMPTION IS DUE TO END.

(1) THE INDIVIDUAL WILL BE GIVEN AN OPPORTUNITY TO PROVIDE NEW OR ADDITIONAL VERIFICATION TO CONTINUE THE EXEMPTION.

(2) THE INDIVIDUAL WILL BE GIVEN THE OPPORTUNITY TO PREPARE TO COMPLY WITH RESET PARTICIPATION REQUIREMENTS UNDER §165.31 (RELATING TO RESET PARTICIPATION REQUIREMENTS).

* * * * *

§165.25. Enrollment after an exemption ends. RESET PARTICIPATION
REQUIREMENTS FOLLOWING AN EXEMPTION.

A person AN INDIVIDUAL who was formerly exempt is required to
SHALL participate in a work or work-related activity RESET, AS SPECIFIED IN §165.31
(RELATING TO RESET PARTICIPATION REQUIREMENTS), in accordance with the
following:

(1) An individual who is WAS exempt due to a physical or
mental disability is required to participate IN RESET;

(i) Immediately if the condition ceases during the first 22
months that the person INDIVIDUAL receives cash assistance.

(ii) Within 8 weeks if the condition ceases after the
person INDIVIDUAL has received cash assistance for 22 months or more.

(2) A person AN INDIVIDUAL who is WAS exempt from RESET
because he THE INDIVIDUAL is providing child care for a child under 6 years of age is
required to SHALL participate IN RESET as soon as alternate child care arrangements
are available or when the child becomes 6 years of age, whichever occurs first.

(3) An exempt individual under 18 years of age is required to

SHALL participate IN RESET when the individual:

(i) Reaches 18 years of age, although the individual may be able to continue to pursue a high school or equivalency program after age 18 as a work-related activity during the first 24 months of receipt of cash assistance.

(ii) Attains a high school diploma or a certificate of high school equivalency.

(iii) Ceases to pursue a high school diploma or a certificate of high school equivalency.

(4) A custodial parent in a one-parent household who is WAS exempt to provide care to a child under 12 months of age is required to SHALL participate IN RESET under IF one of the following circumstances APPLIES:

(i) The child reaches 12 months of age.

(ii) The custodial parent has claimed this exemption for a total of 12 months during the parent's lifetime.

(iii) The custodial parent chooses to end the exemption.

RESET PARTICIPATION REQUIREMENTS

§165.31. [Participation] RESET participation requirements.

(a) [*Exempt voluntary participation.* An exempt individual may volunteer to participate in the ETP. A voluntary participant who drops out of the Program without good cause after having commenced participation will not be given priority to regain participant status so long as other individuals are actively seeking to participate. An exempt volunteer's withdrawal from the ETP or failure to participate will have no effect on eligibility for assistance benefits.] ~~RESET Program. The RESET Program is designed to enable recipients of cash assistance to secure permanent full-time unsubsidized jobs, entry level jobs or part-time jobs which can establish a work history, preferably in the private sector, with wages and benefits that lead to economic independence and self-sufficiency as soon as practicable, within the constraints of available funds.~~

(b) [*Nonexempt voluntary participation.* Nonexempt volunteers who willfully fail without good cause to participate in the ETP are subject to sanction. Each nonexempt volunteer will be informed of the potential consequence prior to commencement of participation.

(c) *Priority of educational activity to custodial parents.* Custodial parents required to participate under §165.21(d) (relating to enrollment) will be referred to an appropriate educational activity, if available, unless one of the following exists:

(1) The person demonstrates a basic literacy level of 8.9 grade level.

(2) The long-term employment goal of the person as identified in the employment plan does not require a high school diploma or its equivalent.]

~~*Requirements that always apply as conditions of eligibility or continuing eligibility for cash assistance.*~~ THE FOLLOWING RESET PARTICIPATION REQUIREMENTS

ALWAYS APPLY:

(1) ~~Individuals~~ AN INDIVIDUAL ~~who are~~ IS ~~not exempt under~~ §165.21 (relating to enrollment EXEMPTIONS FROM RESET PARTICIPATION REQUIREMENTS) ~~shall seek and accept any bona fide offer of employment and maximize and maintain employment.~~

(2) A NONEXEMPT INDIVIDUAL SHALL ACCEPT REFERRAL TO, WORK IN AND RETAIN EMPLOYMENT IN WHICH THE INDIVIDUAL IS ABLE TO ENGAGE AND PARTICIPATE IN WORK ACTIVITIES SPECIFIED ON THE AMR.

~~(i)(3) Nonexempt individuals~~ A NONEXEMPT INDIVIDUAL may SHALL not, without good cause, voluntarily terminate employment, or reduce earnings or fail to apply for work.

~~(ii)(4) A nonexempt recipient's willful failure to comply~~ INFORMATION INDICATING NONCOMPLIANCE with the requirements of this provision SECTION, without good cause, will result in A COMPLIANCE REVIEW the imposition of sanctions as set forth in ACCORDANCE WITH ~~§165.61~~ 165.51 (relating to sanctions COMPLIANCE REVIEW).

(5) A NONEXEMPT RECIPIENT'S WILLFUL FAILURE, WITHOUT GOOD CAUSE, TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION WILL RESULT IN THE IMPOSITION OF SANCTIONS AS SPECIFIED IN §165.61 (RELATING TO SANCTIONS).

~~(e)(b)~~ *REQUIREMENTS THAT APPLY DURING THE First FIRST 24 months.* THE FOLLOWING RESET PARTICIPATION REQUIREMENTS APPLY DURING THE FIRST 24 MONTHS:

(1) ~~Nonexempt individuals~~ A NONEXEMPT INDIVIDUAL who are IS not employed for an average of at least 20 hours per week are required to SHALL participate in a work-related activity as a condition of eligibility or continuing eligibility for cash assistance.

(2) ~~Nonexempt individuals~~ A NONEXEMPT INDIVIDUAL who are IS not employed for an average of at least 20 hours per week shall accept referral to, participate in and continue to participate in an available and approved work-related activity, including these WORK-RELATED ACTIVITIES specified on the AMR.

~~(1)~~(3) FOR ~~The~~ THE initial work-related activity, is THE INDIVIDUAL SHALL PARTICIPATE IN an initial job search for up to 8 weeks, except as provided in paragraph (4)(6) and subsection (h)(f).

(i) For applicants AN APPLICANT, the initial job search is required upon authorization of cash assistance.

(ii) The applicant or recipient shall document these efforts and present the documentation to the appropriate CAO upon request. A nonexempt recipient's willful failure to comply with this subsection, without good cause, will result in the imposition of sanctions as set forth in §165.61.

~~(2)~~(4) After the initial job search during the first 24 months that an individual receives cash assistance, the individual may fulfill the approved work-related activity requirement, subject to the exceptions LIMITATIONS in paragraphs (3) and (4) (5), (6), (7) AND (8), by participating in one or more of the following activities, as approved by the Department:

(i) Subsidized employment.

(ii) Work experience.

(iii) On-the-job training.

(iv) Community service.

(v) Workfare.

(vi) Vocational education JOB SEARCH, WHETHER INDEPENDENT OR ASSISTED, AND JOB READINESS AND JOB PREPARATION ACTIVITIES.

(vii) General VOCATIONAL education TRAINING OR JOB SKILLS TRAINING.

(viii) English as a second language ANY EMPLOYMENT AND TRAINING PROGRAM FUNDED OR APPROVED BY THE DEPARTMENT THAT PROVIDES ONE-STOP ACCESS TO INTENSIVE CASE MANAGEMENT, TRAINING, EDUCATION, JOB READINESS TRAINING, JOB SEARCH AND INDIVIDUAL JOB DEVELOPMENT THAT LEADS TO JOB PLACEMENT.

(ix) ~~Job skills training~~ ANY EMPLOYMENT AND TRAINING PROGRAM FUNDED OR APPROVED BY THE DEPARTMENT THAT PROVIDES ACTIVITIES FOR A CASH ASSISTANCE APPLICANT OR RECIPIENT TO ACHIEVE RAPID ATTACHMENT TO THE WORKFORCE.

(x) ~~Job search~~ IN THE CASE OF A RECIPIENT 18 YEARS OF AGE OR OLDER AND LESS THAN 22 YEARS OF AGE, GENERAL EDUCATION THAT IS NECESSARY FOR THE RECIPIENT TO OBTAIN EMPLOYMENT, A HIGH SCHOOL DIPLOMA OR A CERTIFICATE OF HIGH SCHOOL EQUIVALENCY, SUBJECT TO THE RECIPIENT MAINTAINING SATISFACTORY PROGRESS AS DEFINED BY THE SCHOOL OR EDUCATIONAL PROGRAM.

(xi) ~~Job readiness/preparation activities.~~

(3)(5) During the first 24 months that an individual receives cash assistance, whether consecutive or interrupted, participation in an approved vocational education, general education, English-as-a-second language and job skills training counts toward fulfilling the work-related activity requirement OF THIS SUBSECTION for a maximum of 12 months. AFTER 12 MONTHS OF EDUCATION OR TRAINING, THE INDIVIDUAL MAY CONTINUE TO PURSUE EDUCATION OR TRAINING, BUT SHALL ALSO FULFILL RESET PARTICIPATION REQUIREMENTS, UNLESS THE INDIVIDUAL ESTABLISHES GOOD CAUSE UNDER §165.52 (RELATING TO GOOD CAUSE).

~~(4)(6)~~ A recipient 18 years of age or older but under 22 years of age who does not have a high school diploma or its equivalent can MAY fulfill the work-related activity requirement RESET PARTICIPATION REQUIREMENTS by pursuing a high school diploma or its equivalent, PROVIDED THAT THE INDIVIDUAL MAINTAINS SATISFACTORY PROGRESS, AS DEFINED BY THE INSTITUTION.

(7) WORK EXPERIENCE IS LIMITED TO 6 CUMULATIVE MONTHS IN AN INDIVIDUAL'S LIFETIME.

(8) NOTWITHSTANDING PARAGRAPH (7), WORK EXPERIENCE MAY BE EXTENDED BEYOND THE 6-MONTH LIFETIME LIMIT IF NECESSARY TO COMPLY WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C.A. § 12131 - 12165.

~~(d)(c)~~ REQUIREMENTS THAT APPLY After AFTER THE FIRST 24 months. THE FOLLOWING RESET PARTICIPATION REQUIREMENTS APPLY AFTER THE FIRST 24 MONTHS:

(1) After receiving cash assistance for 24 months, whether the months are consecutive or interrupted, the recipient A NONEXEMPT INDIVIDUAL shall, as a condition of receiving ELIGIBILITY OR CONTINUING ELIGIBILITY FOR cash assistance, participate for an average of at least 20 hours per week in any one or a combination of the following activities, as approved by the Department:

(i) Unsubsidized employment.

(ii) Subsidized employment.

(iii) Work experience.

(iv) Community service.

(v) On-the-job training.

(vi) Workfare.

~~(2) A nonexempt individual shall accept referral to, participate in and continue to participate in an available work activity, including those specified on the AMR. A nonexempt recipient's failure to comply with this section, without good cause, will result in the imposition of sanctions as set forth in §165.61.~~ AFTER 24 MONTHS OF RECEIPT OF CASH ASSISTANCE, AN INDIVIDUAL MAY CONTINUE TO PURSUE EDUCATION OR TRAINING, BUT SHALL ALSO FULFILL RESET PARTICIPATION REQUIREMENTS, INCLUDING THE MINIMUM 20-HOUR-PER-WEEK WORK ACTIVITY REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION, UNLESS THE INDIVIDUAL ESTABLISHES GOOD CAUSE, AS SPECIFIED IN §165.52.

(3) WORK EXPERIENCE IS SUBJECT TO THE PROVISIONS OF PARAGRAPHS (7) AND (8) OF SUBSECTION (b).

[(d) EDP] ~~(e)~~(d) AMR AND EDP. Final approval of the [EDP] work and work-related activities listed in the AMR OR EDP rests with the Department. The [EDP] AMR AND EDP is ARE not considered a ~~contract~~ CONTRACTS. Factors to be considered in developing the [EDP] AMR AND EDP include:

* * * * *

[(e)]~~(f)~~(e) *Self-initiated education or training*. SUBJECT TO SUBSECTIONS (b) AND (c) OF THIS SECTION, ~~Self-initiated~~ SELF-INITIATED education or training may be approved as part of an individual's [EDP] AMR, if [in addition to the criteria in subsection (d),] ~~the following conditions are met:~~

-----* * * * *

~~(1) The person attends at least half time as defined by the institution.~~

(2) ~~The~~ The person is making satisfactory progress as defined by the institution.

~~(3) The activity is not secondary education or an equivalent level of vocational or technical training, unless the individual is a pregnant female or a custodial parent.~~

~~(4) During the first 24 months that an individual receives cash assistance, participation in an approved vocational education, general education, English as a second language and job skills training counts toward fulfilling the work-related activity requirement for a maximum of 12 months. After 12 months of education and training, the individual may continue to pursue education, but shall combine it with some other approved work-related activity.~~

~~(5) After 24 months of receipt of cash assistance, a person shall also fulfill the minimum 20-hour per week work activity requirement as specified in subsection (d).~~

~~(g)(f) Exempt voluntary participation. An exempt individual may volunteer to participate in RESET. An exempt volunteer is not required to conduct an initial job search before enrolling PARTICIPATING in RESET.~~

SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES

§165.41. Eligibility for special allowances for supportive services.

(a) ~~A participant in the ETP~~ A CASH ASSISTANCE OR FOOD STAMP RECIPIENT ~~is eligible to~~ MAY receive certain special allowances to pay for in advance or to reimburse costs of supportive services, AS specified in this chapter, to enable the individual to prepare for, seek, accept or maintain education, training or employment. Payment for supportive services will be made in advance whenever the payment is needed by the ~~client~~ INDIVIDUAL to begin or maintain an ~~ETP~~ A RESET activity.

(b) FOR AN INDIVIDUAL SEEKING CASH ASSISTANCE, ~~To~~ TO qualify to receive a special allowance for supportive services, the individual ~~shall be found~~ MUST BE DETERMINED eligible ~~to receive~~ FOR Cash Assistance CASH ASSISTANCE, PARTICIPATE IN RESET UNLESS EXEMPT, AND HAVE AN APPROVED AMR. ~~including persons who do not receive a cash payment due to the minimum monthly check requirement, or food stamps, shall be enrolled in the ETP, and shall have an approved EDP.~~ FOR AN INDIVIDUAL SEEKING ONLY FOOD STAMPS, TO QUALIFY FOR A SPECIAL ALLOWANCE FOR SUPPORTIVE SERVICES, THE INDIVIDUAL MUST COMPLY WITH AN APPROVED EDP. THE APPROVED AMR OR EDP, WHICHEVER IS APPLICABLE, MUST SPECIFY THE ACTIVITIES FOR WHICH THE SUPPORTIVE SERVICES WILL BE PROVIDED.

(c) A special allowance for supportive services is made only to the extent that the item or service is not available from another public source at no cost to the ~~client~~ INDIVIDUAL, does not interfere with parental choice as specified in §§165.46(a)(5) AND 168.11(b) (relating to types of special allowances for supportive services; AND GENERAL REQUIREMENTS), ~~or~~ AND cannot be met by educational assistance as ~~provided in §183.38 (relating to educational assistance).~~

FURTHERMORE, THE ACTIVITY MUST NOT BE SECONDARY EDUCATION OR AN EQUIVALENT LEVEL OF VOCATIONAL OR TECHNICAL TRAINING, UNLESS THE INDIVIDUAL IS A PREGNANT FEMALE OR CUSTODIAL PARENT.

(d) The CAO ~~shall~~ WILL inform ~~applicants and recipients~~ THE INDIVIDUAL, in writing and orally, of the availability of special allowances for supportive services at application, reapplication and whenever the AMR OR EDP is developed or revised.

* * * * *

[CONCILIATION] COMPLIANCE REVIEW AND GOOD CAUSE

§165.51. [Conciliation] Compliance review.

(a) [The worker shall exhaust efforts toward conciliatory resolution of disputes with the person before the issuance of a notice of adverse action. Conciliatory efforts will be documented in the case record. The recipient shall be counseled as to the purpose of the Program and the consequences of a refusal to participate] *NEED FOR COMPLIANCE REVIEW.* A COMPLIANCE REVIEW WILL BE CONDUCTED WHEN ~~Information indicating~~ INFORMATION INDICATES THAT A RECIPIENT MAY BE OUT OF COMPLIANCE ~~noncompliance with work or work-related~~ RESET PARTICIPATION ~~requirements,~~ AS SPECIFIED IN §165.31 (RELATING TO RESET PARTICIPATION REQUIREMENTS. ~~shall result in a review of compliance with these requirements. The purpose of a compliance review is to determine whether a recipient is willfully, and without good cause, not complying with work or work-related requirements. The caseworker will inform the recipient of the need for a compliance review and the consequences of failing to participate in the compliance review. The~~ [conciliation session shall] ~~compliance review may be conducted in person~~ [, at an agreed upon time, unless the recipient would prefer to have it] ~~or by telephone according to the recipient's preference. When scheduling the compliance review, the caseworker will consider the recipient's schedule, including work and school obligations.~~

(b) [A conciliation session shall be conducted to discuss the reasons for the Department's particular requirements, how they fit into the EDP of the recipient, why the recipient has difficulty with or objects to the particular requirement and shall include a good faith effort by all parties to overcome barriers to participation. The purpose of the conciliation session is to explore ways to facilitate a mutually advantageous relationship that will make the recipient more employable and help the recipient to reduce dependency. If the recipient is willing to participate but has difficulty participating, every opportunity shall be made to reach a reasonable resolution. This shall include rescheduling appointments to mutually agreed upon times, transportation assistance and exploration of alternative components or revision of the EDP. Unless a recipient shows a clear pattern of missing appointments without good cause, these appointments shall be rescheduled] At the compliance review, the recipient has an opportunity to present information concerning the recipient's compliance with work or work-related requirements. After reviewing the facts, the caseworker will determine if the recipient is complying with work or work-related requirements. If the caseworker determines that the recipient is noncompliant, the caseworker will also determine if noncompliance was willful and without good cause. *SCHEDULING THE COMPLIANCE REVIEW.* THE CASEWORKER WILL INFORM THE RECIPIENT OF THE NEED FOR A COMPLIANCE REVIEW AND THE CONSEQUENCES OF FAILING, WITHOUT GOOD CAUSE, TO PARTICIPATE IN THE COMPLIANCE REVIEW. IN SCHEDULING

THE COMPLIANCE REVIEW, THE CASEWORKER WILL REASONABLY TAKE INTO ACCOUNT THE INDIVIDUAL'S WORK SCHEDULE, FAMILY AND SCHOOL OBLIGATIONS. THE COMPLIANCE REVIEW MAY BE CONDUCTED IN PERSON OR BY TELEPHONE, ACCORDING TO THE INDIVIDUAL'S PREFERENCE.

(c) *PURPOSE OF COMPLIANCE REVIEW.* WITH THE UNDERSTANDING THAT THE GOAL OF RESET IS TO ASSIST THE INDIVIDUAL IN BECOMING EMPLOYABLE AND SELF-SUFFICIENT, THE COMPLIANCE REVIEW WILL SEEK TO IDENTIFY THE REASONS FOR THE INDIVIDUAL'S APPARENT NONCOMPLIANCE WITH RESET PARTICIPATION REQUIREMENTS. THE CASEWORKER WILL REVIEW THE FACTS INCLUDING THOSE PRESENTED BY THE INDIVIDUAL AND THOSE FACTS ALREADY KNOWN BY THE DEPARTMENT. IF THE INDIVIDUAL'S FAILURE TO COMPLY WITH RESET PARTICIPATION REQUIREMENTS IS NOT WILLFUL OR THE INDIVIDUAL HAS GOOD CAUSE UNDER §165.52 (RELATING TO GOOD CAUSE), THE INDIVIDUAL IS NOT SUBJECT TO SANCTION. IN THAT INSTANCE, THE CASEWORKER WILL EXPLORE WAYS TO ADDRESS THE OBSTACLES THAT PREVENTED THE INDIVIDUAL FROM COMPLYING WITH RESET PARTICIPATION REQUIREMENTS.

~~(e)~~ (d) *RESULTS OF COMPLIANCE REVIEW.* THE CASEWORKER WILL DOCUMENT THE RESULTS OF THE COMPLIANCE REVIEW. IF THE CASEWORKER DETERMINES THAT ~~A~~ A recipient who HAS willfully fails FAILED, without good cause, to comply with work or work-related RESET PARTICIPATION requirements, THE RECIPIENT is subject to sanction under §165.61 (relating to sanctions). For a noncompliant recipient not subject to sanction, the caseworker will review program requirements, help identify obstacles to compliance, and with the recipient's participation INVOLVEMENT, develop a new AMR to help achieve and maintain compliance. A RECIPIENT MAY APPEAL THE DEPARTMENT'S DECISION THAT THE RECIPIENT IS SUBJECT TO SANCTION AS SPECIFIED UNDER §275.1 (RELATING TO POLICY).

(e) *SPECIAL PROVISION FOR INDIVIDUALS WITH DISABILITIES.* IF THE CASEWORKER KNOWS THAT AN INDIVIDUAL HAS A DISABILITY, THE CASEWORKER CONSIDERS THIS FACT, AND THOSE PRESENTED BY THE INDIVIDUAL. IF THE FACTS REVEAL THAT THE INDIVIDUAL DID NOT COMPLY WITH RESET PARTICIPATION REQUIREMENTS DUE TO DISABILITY, NO SANCTION IS IMPOSED. IN THAT CASE, THE CASEWORKER AND THE INDIVIDUAL WILL DEVELOP AN NEW AMR TO ADDRESS THE DISABILITY AND, IF APPLICABLE, OTHER OBSTACLES TO SELF-SUFFICIENCY.

§165.52. Good cause.

(a) Good cause includes the following circumstances beyond the client's INDIVIDUAL'S control:



(1) The job was beyond the capacity of the ~~person~~ INDIVIDUAL.

(2) The ~~person~~ INDIVIDUAL reasonably attempted and is unable to secure or to maintain transportation.

(3) The ~~person~~ INDIVIDUAL reasonably attempted and cannot secure or maintain ~~satisfactory day~~ APPROPRIATE CHILD care, AS DEFINED IN §165.2 (RELATING TO DEFINITIONS), ~~for the person's children~~ or ~~satisfactory~~ APPROPRIATE adult care for an incapacitated adult living in the same home, WITHIN A REASONABLE DISTANCE FROM THE INDIVIDUAL'S HOME, AS DEFINED IN §165.2).

* * * * *

(5) The ~~person~~ INDIVIDUAL establishes a basis for a claim of discrimination by an employer or fellow employees based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs or other unlawful discrimination.

(6) The ~~person~~ INDIVIDUAL leaves a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor, construction work or temporary work through an agency. Even though employment at the new site has not actually started, leaving the previous employment shall be considered good cause if it is part of the pattern of that type of employment.

* * * * *

~~(9) The person does not have adequate child care for children who need close supervision, particularly if the hours of employment or [ETP] RESET participation are other than normal daylight working hours.~~

~~(10)~~(9) The ~~person~~ INDIVIDUAL failed to receive notice at least 2 days prior to the date of a scheduled [ETP] RESET activity.

(11)(10) The ~~person~~ INDIVIDUAL ends a sporadic work relationship that does not hold a reasonable possibility for permanent, full-time work to participate in an approved [ETP] RESET activity or to accept full-time employment.

(12)(11) A job offer is rejected because it will result in a net loss of cash income to the budget group of the [ETP] RESET participant. Net loss of cash income results if the budget group's gross income less actual work-related expenses plus a [Cash Assistance] cash assistance payment for which the budget group remains eligible is less than the [Cash Assistance] cash assistance previously received. The actual work-related expenses include mandatory payroll deductions as well as the actual cost of the child care, cost of care of an incapacitated ~~person~~ INDIVIDUAL living in the same home and transportation.

(13)(12) The ~~person~~ INDIVIDUAL was placed in an education or training activity that was beyond the capacity of the ~~person~~ INDIVIDUAL to complete, and the ~~person~~ INDIVIDUAL is willing to participate in another activity better suited to the ~~person's~~ INDIVIDUAL'S needs and aptitudes.

(14)(13) * * *

~~(15)~~(14) The location of [an ETP] a RESET site or job is more than 2 hours round-trip by reasonably available public or private transportation from the client's INDIVIDUAL'S residence.



~~(16)~~ The person is a parent or other caretaker/relative personally providing care for a child 6 years of age or younger and the employment would require the person to work more than 20 hours per week.

~~(17)~~(15) The person INDIVIDUAL is claiming to be exempt from [ETP] RESET enrollment PARTICIPATION REQUIREMENTS under §[165.21(c)(1)] 165.21 (relating to enrollment EXEMPTIONS FROM RESET PARTICIPATION REQUIREMENTS) and is cooperating in an attempt to provide verification OF EXEMPTION.



(b) In determining good cause, the worker shall WILL give the client INDIVIDUAL the benefit of the doubt and consider all the facts and circumstances, especially if the transgression is relatively minor (such as, reporting to a component a

few minutes late) or isolated in nature (such as forgetting to keep an appointment, despite good overall attendance). Even after the CAO has made a preliminary determination of the lack of good cause, ~~a person~~ AN INDIVIDUAL may offer evidence of good cause in order to avoid sanction.

(c) THE DEPARTMENT MAY GRANT GOOD CAUSE FOR UP TO 6 MONTHS TO AN INDIVIDUAL, WHERE STRICT APPLICATION OF ANY RESET PARTICIPATION REQUIREMENT WOULD NOT PROMOTE AN INDIVIDUAL'S APPROVED PLAN FOR SELF-SUFFICIENCY, AS RECORDED ON THE AMR, AND WOULD MAKE IT MORE DIFFICULT FOR THE INDIVIDUAL TO FULFILL THE PLAN. EXAMPLES OF GOOD CAUSE FOR NOT STRICTLY COMPLYING WITH A RESET PARTICIPATION REQUIREMENT INCLUDE:

(1) HOURS THAT AN INDIVIDUAL IS PARTICIPATING IN AN APPROVED EDUCATION OR TRAINING ACTIVITY WHICH BEGAN DURING THE FIRST 24 MONTHS OF RECEIPT OF CASH ASSISTANCE, IF THE TOTAL HOURS OF INSTRUCTION, LAB TIME AND WORK OR WORK-RELATED ACTIVITY, WHICHEVER APPLIES, EQUALS AT LEAST 20 HOURS PER WEEK.

(2) HOURS THAT AN INDIVIDUAL IS PARTICIPATING IN AN INTERNSHIP, STUDENT TEACHING, OR PRACTICUM ASSIGNMENT REQUIRED AS PART OF AN APPROVED EDUCATION OR TRAINING CURRICULUM, IF THE

INDIVIDUAL IS MAINTAINING SATISFACTORY PROGRESS AS DETERMINED BY THE SCHOOL OR TRAINING AGENCY, AND THE TOTAL HOURS OF THIS ACTIVITY AND WORK OR WORK-RELATED ACTIVITY, WHICHEVER APPLIES, EQUALS AT LEAST 20 HOURS PER WEEK.

(d) THE DEPARTMENT MAY ALSO GRANT GOOD CAUSE TO A PREGNANT OR PARENTING INDIVIDUAL UNDER THE AGE OF 22 WHO IS ENROLLED IN HIGH SCHOOL OR ATTENDING A MINIMUM 20-HOUR PER WEEK GED PROGRAM, UNTIL THE INDIVIDUAL GRADUATES FROM HIGH SCHOOL, RECEIVES A GED OR TURNS 22, WHICHEVER OCCURS FIRST.

SANCTIONS

§165.61. Sanctions.

(a) A sanction will be imposed on an individual who is required [but willfully fails without good cause] to participate in [the ETP, fails] RESET and, IF THE INDIVIDUAL willfully, and without good cause, does one or more of the following:

(1) Fails to accept a bona fide offer of employment in which the individual is able to engage [or].

(2) Voluntarily terminates employment [or reduces].

(3) Fails or refuses to accept referral to, participate in, or continue TO ~~participation~~ PARTICIPATE in a AN AVAILABLE ~~work or work-related activity, as~~ INCLUDING WORK-RELATED ACTIVITIES ~~specified in~~ ON the AMR.

(4) Fails to accept referral to, ~~participate~~ WORK in, or ~~continue participation in an available and approved work or work-related activity~~ RETAIN EMPLOYMENT IN WHICH THE INDIVIDUAL IS ABLE TO ENGAGE AND PARTICIPATE IN WORK ACTIVITIES SPECIFIED ON THE AMR.

(5) Fails to seek employment.

(6) Fails to maximize employment.

~~(7)~~(6) Fails to maintain employment.

~~(8)~~(7) Reduces earnings [without good cause. This subsection includes a nonexempt individual who volunteers to participate] ~~after having received cash assistance for 24 months or more.~~

~~(9)(8) Fails~~ DURING THE FIRST 24 MONTHS OF CASH

ASSISTANCE, FAILS to participate in one of the following work-related activities, if not employed at least 20 hours per week during the first 24 months of receiving cash assistance:

(i) Subsidized employment.

(ii) Work experience.

(iii) On-the-job training.

(iv) Community service.

(v) Workfare.

(vi) Vocational education JOB SEARCH, WHETHER INDEPENDENT OR ASSISTED, AND JOB READINESS AND JOB PREPARATION ACTIVITIES.

(vii) General VOCATIONAL education TRAINING OR JOB SKILLS TRAINING.

(viii) ~~English as a second language~~ ANY EMPLOYMENT AND TRAINING PROGRAM FUNDED OR APPROVED BY THE DEPARTMENT THAT PROVIDES ONE-STOP ACCESS TO INTENSIVE CASE MANAGEMENT, TRAINING, EDUCATION, JOB READINESS TRAINING, JOB SEARCH AND INDIVIDUAL JOB DEVELOPMENT THAT LEADS TO JOB PLACEMENT.

(ix) ~~Job skills training~~ ANY EMPLOYMENT AND TRAINING PROGRAM FUNDED OR APPROVED BY THE DEPARTMENT THAT PROVIDES ACTIVITIES FOR A CASH ASSISTANCE APPLICANT OR RECIPIENT TO ACHIEVE RAPID ATTACHMENT TO THE WORKFORCE.

(x) ~~Job search~~ IN THE CASE OF A RECIPIENT 18 YEARS OF AGE OR OLDER AND LESS THAN 22 YEARS OF AGE, GENERAL EDUCATION THAT IS NECESSARY FOR THE RECIPIENT TO OBTAIN EMPLOYMENT, A HIGH SCHOOL DIPLOMA OR A CERTIFICATE OF HIGH SCHOOL EQUIVALENCY, SUBJECT TO THE RECIPIENT MAINTAINING SATISFACTORY PROGRESS AS DEFINED BY THE SCHOOL OR EDUCATIONAL PROGRAM.

(xi) ~~Job readiness/preparation activities.~~

~~(10)~~(9) Fails AFTER RECEIVING 24 MONTHS OF CASH ASSISTANCE, FAILS to participate for an average of at least 20 hours per week in one of the following work activities after receiving 24 months of cash assistance.

(i) Unsubsidized employment.

(ii) Subsidized employment.

(iii) Work experience.

(iv) Community service.

(v) On-the-job training.

(vi) Workfare.

~~(11)~~(10) Fails to agree to fulfill the work or work-related activity RESET PARTICIPATION requirements.

~~(12)~~(11) Fails to apply for work at the time and in the manner the Department may prescribe.

(b) [If the individual under sanction is the only dependent child on the AFDC or AFDC-U budget group, the caretaker/relative shall continue to receive AFDC or AFDC-U during the sanction period, if otherwise eligible.] The sanction period shall be:

(1) For the first occurrence, INELIGIBILITY FOR CASH ASSISTANCE FOR 30 days, or until the recipient is willing to comply, whichever is longer.

(2) For the second occurrence, INELIGIBILITY FOR CASH ASSISTANCE FOR 60 days, or until the recipient is willing to comply, whichever is longer.

(3) For the third occurrence, ~~permanently~~ PERMANENT INELIGIBILITY FOR CASH ASSISTANCE.

(c) [If the individual is a nonexempt parent in the AFDC-U category and the other parent is not enrolled in or participating in the ETP, the failure of the individual to cooperate will make both parents ineligible for assistance. If the other parent agrees to participate, the sanction will only be imposed on the nonparticipating parent.] Applicability of the sanction is as follows:

(1) During the first 24 months, the sanction is imposed only on the person INDIVIDUAL who fails FAILED to comply.

(2) After 24 months, the sanction is imposed on the entire budget group.

(d) [The sanction period shall be:

(1) For the first occurrence, until the failure to comply ceases.

(2) For the second occurrence, 3 payment months or until the failure to comply ceases, whichever is longer.

(3) For the third occurrence and thereafter, 6 payment months or until the failure to comply ceases, whichever is longer.] In lieu of the sanctions in subsections PARAGRAPHS (b)(1) – (3) and (c)(1), if an employed individual voluntarily, without good cause, reduces his earnings during the first 24 months that assistance is received by not working an average of at least 20 hours per week, the grant is WILL BE reduced by the dollar value of the income that would have been earned if the recipient

had not voluntarily reduced the hours of employment to less than an average of 20 hours per week. UNLESS THE INDIVIDUAL VERIFIES AN EXEMPTION FROM RESET PARTICIPATION REQUIREMENTS OR ESTABLISHES GOOD CAUSE FOR NONCOMPLIANCE, ~~The~~ THE reduction continues WILL CONTINUE until the MINIMUM 20-HOUR WEEKLY WORK requirement is met.

(e) If the individual under sanction IN THE FIRST 24 MONTHS is the only dependent child in the TANF budget group, the caretaker shall WILL continue to receive TANF during the sanction period, if otherwise eligible, ~~during the first 24 months that TANF is received.~~

~~(e)~~(f) If the individual under sanction in the first 24 months is a parent or other [caretaker/relative] caretaker, protective payments for the remaining members of the [assistance unit] budget group will be [in the form of protective or vendor payments in accordance with Chapter 291 (relating to protective and vendor payments). If after making reasonable efforts a protective payee is unable to be located, payments on behalf of the remaining members of the budget group will be made to the caretaker/relative] made to the caretaker under sanction.

NOTIFICATION

§165.71. Notification.

(a) If the [conciliation effort has ended without resolution of the matter] compliance review results in a finding that the recipient was willfully, AND WITHOUT GOOD CAUSE, noncompliant FAILED TO COMPLY with RESET PARTICIPATION requirements without good cause, the client CAO will be sent a notice NOTIFY THE RECIPIENT in accordance with Chapter 133 (relating to redetermining eligibility). This notice [shall include a detailed explanation of] will indicate the sanction to be imposed and the reason for the [action, the consequence of refusal or failure to cooperate without good cause with an ETP requirement and the action needed to end the] sanction.

(b) An individual whose failure to comply results in a sanction, AS SPECIFIED IN §165.61 (RELATING TO SANCTIONS), will be reminded in writing [when 3 months have elapsed] BEFORE THE END OF THE MINIMUM DURATIONAL SANCTION PERIOD of the individual's option to end the sanction by correcting the failure to comply. THE CAO WILL SEND THE REMINDER TO THE INDIVIDUAL 10 DAYS PRIOR TO THE END OF THE SANCTION PERIOD.

* * * * *

Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 177. RESOURCES

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:

* * * * *

(2) [Equity] The full value of one [automobile] vehicle per TANF or GA budget group [up to a maximum of \$1,500. The excess value is considered an available resource and is counted and applied toward the resource limit]. The equity value of all other vehicles will be counted and applied toward the resource limit.

* * * * *

(11) An educational savings account established by an individual at a bank or other financial institution to pay for education expenses, including tuition, books and incidental expenses related to attendance at a vocational school, community college, college or university. The account shall be clearly identified as having been established for or restricted to payment of educational expenses.

* * * * *

(iii) Moneys withdrawn to pay for educational expenses are exempt. Documentation shall be provided that verifies the expenses were incurred and related to attending school.

* * * * *

(12) Savings accounts established and bonds purchased under the Tuition Account Program and College Savings Bond Act (24 P. S. §§6901.101--
[6901.509] 6901.701).

(13) Student financial EDUCATIONAL assistance for educational expenses in the form of loans, grants and scholarships, AND WORK-STUDY INCOME.

(14) The face and cash surrender value of a life insurance policy.

(15) A family savings account established under Chapter 21 of the Job Enhancement Act (73 P.S. §§400.2101--400.2103).

(i) The account shall be clearly identified as a family savings account.

(ii) The savings account, its ownership and the account balance shall be verified by written documentation. Documentation may include a copy of the passbook or a current statement from the bank or other financial institution.

(iii) Moneys deposited into the account plus interest earned on the account shall be exempt in determining eligibility as long as the funds remain on deposit.

(iv) Moneys withdrawn to pay for expenses outlined in an approved savings plan for this account are exempt. Documentation shall be provided that verifies the expenses were incurred.

(v) Moneys withdrawn from a family savings account that are used for a purpose unrelated to the approved savings plan shall be added to the budget group's resource amount and used to determine eligibility beginning with the date of withdrawal. Exception: moneys withdrawn to pay for educational expenses shall be exempt.

* * * * *

§177.22. Real property.

* * * * *

(b) *Nonresident property owned by an applicant or recipient.*

Nonresident property, including a burial space, is considered in the following manner:

* * * * *

(3) If the equity value of nonexempt property, either alone or in combination with other nonexempt resources, exceeds the resource limit, each separately deeded parcel of nonexempt property receives [a one-time-only] an exemption for 9 consecutive budget months beginning with the date assistance is authorized for applicants, and the date the resource becomes legally available for recipients, if the following requirements are met:

* * * * *

(ii) [The applicant or recipient signs an agreement to dispose of the property within the 9 consecutive month exemption period] In cases when the budget group has been unable to sell nonresident property for reasons

beyond their control, the 9-month time limit for disposing of the property will be extended for additional 9-month periods as long as the Department determines that the budget group is continuing to make a good-faith effort to sell the property.

* * * * *

(4) If the nonexempt property has not been sold within each of the 9-month exemption [period] periods, and the budget group cannot substantiate that a good-faith effort to sell the property is still being made, the recipient and members of the budget group for whom he is an LRR are ineligible, and the assistance received is treated as an overpayment. If the assistance stops and restarts during the 9 consecutive month exemption period, the assistance received is treated as an overpayment.

* * * * *

§177.24. Determining value of resources.

Unless specifically exempt under §177.21 or §177.22 (relating to personal property; and real property), the equity value of real and personal property is subject to the resource limits in §177.31 (relating to resource limit).

(1) *Determining value of personal property.* An applicant, recipient, guardian, trustee or sponsor of an alien shall provide documentation verifying value of personal property. This documentation includes, ~~but is not limited to,~~ a written estimate from a car dealer of the fair market value of a motor vehicle, a title of ownership and a written statement from financial institutions. Special requirements regarding certain personal property resources are as follows:

[(i) *Burial reserves.* A burial reserve is considered as follows:]

[(A)] (i) * * *

[(B)] (ii) * * *

[(C)] (iii) * * *

[(ii) *Life insurance.* The client may document the cash value of a life insurance policy by presenting a policy which contains cash value charts or through a written statement from the insurance company.

(A) The cash value is considered an available resource to the budget group if the applicant/recipient or an LRR in the home is the owner of the policy or has the authority to cash in the policy. The client may document ownership by presenting the policy or through a written statement from the insurance company.

(B) Money borrowed by a recipient from the cash value of a life insurance policy is used to determine eligibility under §177.31 during the month in which the cash is borrowed and for each month during which the cash remains unexpended.]

* * * * *

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~~ **APPLICANTS OR 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 a TANF-related category and designates
an NMP ~~person~~ **INDIVIDUAL** who is one of the following:

* * * * *

(ii) ~~A person~~ AN INDIVIDUAL 21 years of age or older and under age 65 who meets the requirements of a specified relative under §151.42 (relating to definitions) and is responsible for the care and control of a dependent child. For purposes of determining if the ~~person~~ INDIVIDUAL 21 years of age or older and under 65 years of age is a specified relative, a dependent child, including the child who is receiving SSI, is a child under 18 years of age or under 19 years of age if the child is a full-time student in secondary school or the equivalent level of a vocational or technical school and [reasonably expected to complete the program before reaching 19 years of age, and] who meets the deprivation of support conditions under §153.43(a)--(c) (relating to [AFDC] TANF deprivation of support or care requirements).

* * * * *

§178.12. Categories of MNO-MA.

MNO-MA ~~applicants/recipients~~ APPLICANTS OR 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:

* * * * *

(5) The TC category is [an AFDC-related] a TANF-related category and designates an MNO ~~person~~ INDIVIDUAL who is one of the following:

* * * * *

(ii) ~~A person~~ AN INDIVIDUAL 21 years of age or older and under 65 years of age who meets the requirements of a specified relative under §151.42 (relating to definitions) and is responsible for the care and control of a dependent child. For purposes of determining if the ~~person~~ INDIVIDUAL 21 years of age or older and under 65 years of age is a specified relative, a dependent child, including the child who is receiving SSI, is a child under 18 years of age or under 19 years of age if the child is a full-time student in secondary school or the equivalent level of a vocational or technical school and [reasonably expected to complete the program before reaching 19 years of age, and] who meets the deprivation of support conditions under §153.43(a)--(c) (relating to [AFDC] TANF deprivation of support or care requirements).

* * * * *

Subchapter C. TANF-RELATED AND GA-RELATED CATEGORIES OF MA
ADDITIONAL RESOURCE REQUIREMENTS FOR TANF-RELATED AND GA-
RELATED CATEGORIES OF MA

§178.151. Additional resource requirements.

* * * * *

(c) If an ~~applicant/recipient~~ APPLICANT OR RECIPIENT or LRR owns nonexcluded real property, he shall have a ~~[6-month]~~ 9-month period in which to make a bona fide effort to sell the property [. The 6-month period may be extended for an additional 3 months if] and additional 9-month periods as long as the ~~applicant/recipient~~ APPLICANT OR RECIPIENT or LRR can demonstrate good cause for not selling the property [by the end of the 6-month period].

(d) That portion of a gift that exceeds \$50 per ~~person~~ INDIVIDUAL in a calendar quarter as determined under §181.263(8) (relating to other types of income not counted for the [AFDC] TANF and GA categories) is a countable resource.

* * * * *

RESOURCE EXCLUSIONS FOR THE [AFDC] TANF-RELATED AND GA-RELATED
CATEGORIES OF MA

§178.161. Personal property exclusions.

The following personal property is excluded:

* * * * *

(12) [*Term insurance*. Term insurance or other life insurance which does not accumulate a cash value.

(13)] * * *

[(14)] (13) *Life insurance policies*. [*Life*] The face and cash surrender value of all life insurance owned by the applicant/recipient APPLICANT OR RECIPIENT [up to a maximum face value of \$1,500 for each insured person is excluded. If the life insurance of an insured person has a total face in excess of \$1,500, only the cash surrender value in excess of \$1,000 will be considered a resource to the owner.

(15)] (14) * * *

[(16)] (15) * * *

(16) Student financial EDUCATIONAL assistance for educational expenses in the form of loans, grants and scholarships, AND WORK-STUDY INCOME,

(17) A family savings account established under Chapter 21 of the Job Enhancement Act (73 P. S. §§400.2101--400.2103).

(i) The account shall be clearly identified as a family savings account.

(ii) The savings account, its ownership and the account balance shall be verified by written documentation. Documentation may include a copy of the passbook or a current statement from the bank or other financial institution.

(iii) Moneys deposited into the account, plus interest earned on the account shall be exempt in determining eligibility as long as the funds remain on deposit.

(iv) Moneys withdrawn to pay for expenses outlined in an approved savings plan for this account are exempt. Documentation shall be provided that verifies the expenses were incurred.

(v) Moneys withdrawn from a family savings account that are used for a purpose unrelated to the approved savings plan shall be added to the applicant/recipient APPLICANT OR RECIPIENT group's resource amount and used to determine eligibility beginning with the date of withdrawal. Exception: moneys withdrawn to pay for educational expenses shall be exempt.

* * * * *

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 education expenses, including tuition, books and incidental expenses related to attendance at a vocational school, community college, college or university is not counted in determining eligibility.

* * * * *

(4) Moneys withdrawn to pay for educational expenses are exempt. Documentation shall be provided that verifies the expenses were incurred and related to attending school.

* * * * *

(b) For GA categories of MA, savings accounts established and bonds purchased under the Tuition Account Program and College Savings Bond Act (24 P. S. §§6901.101--~~6901.509~~ 601.701 6901.701) are not counted in determining eligibility.

* * * * *

CHAPTER 181. INCOME PROVISIONS FOR CATEGORICALLY NEEDY

NMP-MA AND MNO-MA

Subchapter A. GENERAL PROVISIONS FOR MA INCOME

COMMON TO ALL CATEGORIES OF MA

CATEGORIES OF MA

§181.41. Categories of NMP-MA.

An NMP-MA ~~applicant/recipient~~ APPLICANT OR RECIPIENT shall meet the income requirements of the category of NMP-MA for which the ~~applicant/recipient~~ APPLICANT OR RECIPIENT is eligible. The following explains the different NMP-MA categories:

* * * * *

(4) The PC category is a TANF-related category and designates an NMP ~~person~~ INDIVIDUAL who is one of the following:

* * * * *

(ii) ~~A person~~ AN INDIVIDUAL 21 years of age or older and under 65 years of age who meets the requirements of a specified relative under §151.42 (relating to definitions) and is responsible for the care and control of a dependent child. For purposes of determining if the ~~person~~ INDIVIDUAL 21 years of age or older and under 65 years of age is a specified relative, a dependent child, including the child who is receiving SSI, is a child under 18 years of age or under 19 years of age if the child is a full-time student in secondary school or the equivalent level of a vocational or technical school and [reasonably expected to complete the program before reaching 19 years of age and] who meets the deprivation of support conditions under §153.43(a)--(c) (relating to [AFDC] TANF deprivation of support or care requirements).

* * * * *

(5) The PU category is an ~~AFDC-related~~ A TANF-RELATED category and designates an NMP ~~person~~ INDIVIDUAL who is one of the following:

* * * * *

~~CATEGORIES OF MA~~

§181.42. Categories of MNO-MA.

An MNO-MA ~~applicant/recipient~~ APPLICANT OR RECIPIENT shall meet the income requirements of the category of MNO-MA for which the ~~applicant/recipient~~ APPLICANT OR RECIPIENT is eligible. The following explains the different MNO-MA categories:

* * * * *

(5) The TC category is ~~[an AFDC]~~ a TANF-related category and designates an MNO ~~person~~ INDIVIDUAL who is one of the following:

* * * * *

(ii) ~~A person~~ AN INDIVIDUAL 21 years of age or older and under 65 years of age who meets the requirements of a specified relative under §151.42 (relating to definitions) and is responsible for the care and control of a dependent child. For purposes of determining if the ~~person~~ INDIVIDUAL 21 years of

age or older and under 65 years of age is a specified relative, a dependent child, including the child who is receiving SSI, is a child under 18 years of age or under 19 years of age if the child is a full-time student in secondary school or the equivalent age level of a vocational or technical school and [reasonably expected to complete the program before reaching 19 years of age, and] who meets the deprivation of support conditions under §153.43(a)--(c) (relating to [AFDC] TANF deprivation of support or care requirements).

* * * * *

(6) The TU category is an ~~AFDC-related~~ A TANF-RELATED category and designates an MNO ~~person~~ INDIVIDUAL who is one of the following:

* * * * *

Subchapter C. THE [AFDC] TANF AND GA CATEGORIES

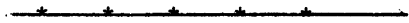
~~NMP-MA GROSS INCOME TEST FOR [AFDC] TANF CATEGORIES~~

§181.251. ~~NMP-MA gross income test for [AFDC] TANF categories. (RESERVED).~~

(a) ~~The following persons shall have their gross monthly income considered:~~

~~(1) — A person who is included in the [applicant/recipient group] application, including a child.~~

~~(2) — An LRR living with the [applicants/recipients] applicants who is not included in the application and who does not receive SSI, SBP, [AFDC] TANF or GA.~~



~~(b) — The following types of income are excluded in determining total gross income:~~

~~(1) — Payments received under the AFDC, SBP, SSI or GA programs.~~

~~(2) — Types of income not counted in determining eligibility for NMP-MA under §§181.262 — 181.264 (relating to educational loans and grants; other types of income not counted for the AFDC and GA categories; and income and benefits not counted by Federal and State statutes for the AFDC and GA categories).~~

~~(3) — The gross monthly earned income of an AFDC dependent child from a Job Training Partnership Act Program. This income is exempt for up to 6 calendar months per calendar year.~~

~~(4) — The gross monthly earned income of a full-time student as defined in Chapter 145 (relating to age) who is an AFDC dependent child. This income is exempt for up to 6 calendar months per calendar year.~~

~~(5) — Types of restricted income not counted in determining eligibility for NMP-MA under §§181.302 and 181.304 (relating to nonservice connected veterans benefits; and income received as representative payee for a child).~~

~~(c) — The total gross monthly earned and unearned income to be counted in the gross income test include the following:~~



~~(1) — Section 181.271 (relating to gross earned income).~~

~~(2) — Section 181.272 (relating to profit from self-employment).~~

~~(3) [Section 181.273 (relating to income in kind).~~

~~(4) * * * Earned Income Tax Credit (EITC) the advance
monthly payment or year-end payment which an applicant/recipient receives.~~

~~[(5)] (4) * * * Section 181.281 (relating to benefits, dividends
and interest).~~

~~[(6)] (5) * * * Section 181.282 (relating to support).~~

~~[(7)] (6) * * * Section 181.283 (relating to contributions).~~

~~[(8)] (7) * * * Section 181.284 (relating to income of a child).~~

~~[(9)] (8) * * * Section 181.285 (relating to income deemed
available from the LRR~~

~~[(10)] (9) * * * Section 181.287 (relating to educational
assistance).~~

~~[(11)] (10) * * * Section 181.288 (relating to rental property
income).~~

~~(d) — An applicant/recipient is eligible for a determination of eligibility for NMP-MA continuing or retroactive MA benefits if:~~

~~(1) — His total gross earned and unearned income as specified in subsection (c) for the month is less than the income limits in Appendix J.~~

~~(2) — His income is less than the income limits in Appendix J after deducting \$10 from his total gross earned and unearned income as specified in subsection (c).~~

~~(3) — His income is less than the income limits in Appendix J after deducting \$10 and medical expenses described in subsection (e) from his total gross earned and unearned income as specified in subsection (c).~~

~~(e) — The medical expenses deductible under subsection (d)(3) include:~~

~~(1) — Unpaid medical expenses, including those reasonably expected to be incurred, which meet the following conditions. The expenses:~~

~~(i) — Are not subject to payment by a third party.~~

~~(ii) — Are not to be paid for under the NMP-MA Program if NMP-MA was to be authorized.~~

~~(iii) — Are the legal obligation of the applicant/recipient.~~

~~(iv) — Have not previously been used as a deduction in the determination of eligibility for a prior authorization of MA.~~

~~(2) — Paid medical expenses which meet the following conditions:~~

~~The expenses:~~

~~(i) — Are paid in the calendar month for which a gross income test is considered.~~

~~(ii) — Have not previously been used as a deduction in the determination of eligibility for a prior authorization of MA.~~

~~(f) — Medical expenses meeting the requirements in subsection (e) are deducted in the following order:~~

~~(1) — Medicare and other health insurance premiums including enrollment fees, deductibles or co-insurance charges incurred by the applicant/recipient regardless of whether they are paid or unpaid.~~

~~(2) Copayments or deductibles required by the Department. An applicant/recipient participating in the copayment program required by the Department is permitted a medical expense deduction for copayment expenses, subject to the copayment limit established by the Department.~~

~~(3) Expenses incurred—paid and unpaid—by the applicant/recipient for necessary medical and remedial services recognized under State statutes or regulations but not included in the NMP-MA Program.~~

~~(4) Expenses—paid and unpaid—by the applicant/recipient for necessary medical and remedial services that are included in the NMP-MA Program.~~

TYPES OF INCOME NOT COUNTED
FOR THE [AFDC] TANF AND GA CATEGORIES

* * * * *

§181.262. Educational loans, and grants AND WORK-STUDY INCOME.

~~{The following types of educational loans and grants to students do not count as income when determining income eligibility for MA:~~

~~(1) Federal loans and grants to undergraduate students made or insured under a program administered by the Secretary of the United States Department of Education. EDUCATIONAL ASSISTANCE IN THE FORM OF LOANS, GRANTS AND SCHOLARSHIPS.~~

~~(2) College Work Study Program (CWSP) earnings of undergraduate students WORK-STUDY INCOME.~~

~~(3) Educational assistance from the Veterans Administration, only to the extent verified as used for educational expenses.~~

~~(4) Grants and scholarships or awards from colleges, schools, or from civic, fraternal and alumni organizations, only to the extent verified as used for educational expenses.] Federally funded student financial assistance, including college work study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income, unless the assistance is provided solely to meet basic living needs.~~

§181.263. Other types of income not counted for the [AFDC] TANF and GA categories.

The following types of income are not counted for the [AFDC]

TANF and GA categories:

* * * * *

TYPES OF EARNED INCOME COUNTED FOR THE [AFDC] TANF AND GA
CATEGORIES

* * * * *

§181.273. [Income-in-kind] (Reserved).

[Income-in-kind is shelter received by the applicant/recipient in return for services rendered and is counted as earned income. The value of the income-in-kind is the difference between the amount of the monthly rent actually paid and the amount of monthly rent which the applicant/recipient would have been charged if he had not rendered a service.

(1) For the NMP-MA categories, the amount counted as income-in-kind may not exceed the appropriate NMP-MA income limits in Appendix E for the number of persons who are receiving income-in-kind.

(2) For the MNO-MA categories, the amount counted as income-in-kind may not exceed the appropriate MNO-MA income limit in Appendix H for the number of persons who are receiving income-in-kind.]

* * * * *

TYPES OF UNEARNED INCOME COUNTED FOR THE [AFDC] TANF AND GA
CATEGORIES

* * * * *

§181.287. ~~Educational assistance.~~ (RESERVED).

[Educational assistance from scholarships, grants and loans not exempted in §181.262 (relating to educational loans and grants) is counted as unearned income unless the applicant/recipient verifies that the educational assistance has been, or is being, used for tuition, mandatory fees, books related to the courses of study or child care and transportation costs--if not residing in college housing and necessary for school attendance. If one payment of educational assistance covers more than 1 month, the amount not used for verified educational expenses is averaged over the period covered by the educational assistance.] ~~Federally funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income, unless the assistance is provided solely to meet basic living needs.~~

* * * * *

DEDUCTIONS FROM INCOME
FOR THE [AFDC] TANF AND GA CATEGORIES

§181.311. Deductions from earned income for the [AFDC] TANF categories of NMP-MA.

Each employed ~~person~~ INDIVIDUAL who qualifies for MA in the FC category, PU category or in the [PD/PK] PD category with PC category children is entitled to the following deductions from earned income in the following order:

(1) *Work expenses*. The first \$90 per month from the earned income of each ~~applicant/recipient~~ APPLICANT OR RECIPIENT who is employed if the employed ~~person~~ INDIVIDUAL is not eligible to receive an earned income incentive deduction as described in paragraph (2) or if the \$90 deduction is more advantageous to the ~~applicant/recipient~~ APPLICANT OR RECIPIENT group.

(2) *[Initial work] Earned income incentive [deduction] deductions*. [A work incentive deduction of \$30 plus 1/3 of the remainder of the earned income which is treated as follows:]

(i) Each employed ~~person~~ INDIVIDUAL in the NMP-MA ~~applicant/recipient~~ APPLICANT OR RECIPIENT group is eligible to receive [the] an earned income incentive deduction [for 4 consecutive months] if one of the following applies:

(A) The employed [recipient] ~~person~~ INDIVIDUAL in the NMP-MA ~~applicant/recipient~~ APPLICANT OR RECIPIENT group is a recipient in [an AFDC-related] a TANF-related category or [in] a GA-related category with a child who is simultaneously a recipient of MA in [an AFDC-related] a TANF-related category.

(B) The employed applicant has been a recipient of cash assistance, NMP-MA or MNO-MA in [an AFDC-related] a TANF-related category in [one] 1 of the 4 calendar months ~~prior to~~ BEFORE the calendar month of his application for NMP-MA.

(C) The employed applicant has been a recipient of cash assistance, NMP-MA or MNO-MA in a GA-related category with a child who was simultaneously a recipient of MA in [an AFDC-related] a TANF-related category in [one] 1 of the 4 calendar months ~~prior to~~ BEFORE the calendar month of his application for NMP-MA.

* * * * *

(ii) [The employed applicant/recipient who received the \$30 and 1/3 incentive deduction for 4 consecutive months, has not received the deduction since] Each employed person INDIVIDUAL in the applicant/recipient APPLICANT OR RECIPIENT group who meets one of the requirements in subparagraph (i) is eligible to receive a continuous 50% earned income incentive deduction or the first \$90 per month work expense deduction from earned income and a \$30 plus 1/3 remainder earned income incentive deduction per requirements in subparagraph (iii), whichever is most advantageous to the applicant/recipient APPLICANT OR RECIPIENT group.

(iii) The application of the \$30 plus 1/3 remainder earned income incentive deduction is treated as follows:

(A) The employed applicant/recipient APPLICANT OR RECIPIENT is eligible to receive the \$30 plus 1/3 remainder earned income incentive deduction for 4 consecutive months if:

(I) [12] Twelve or more consecutive months have elapsed since the employed applicant/recipient APPLICANT OR RECIPIENT last received NMP-MA in [an AFDC-related] a TANF-related category or in

a GA-related category with a child who was simultaneously a recipient in [an AFDC-related] a TANF-related category. The count begins with the first month following the month of termination for NMP-MA regardless of whether the employed ~~person~~ INDIVIDUAL received the entire 8 consecutive months of the \$30 income incentive deduction described in [paragraph (4)] clause (B).

[(iii)] (II) * * *

[(A)] (-a-) * * *

[(B)] (-b-) * * *

[(iv)] (III) An applicant/recipient

APPLICANT OR RECIPIENT who has his NMP-MA terminated due to receipt of a regularly recurring extra paycheck within a 5-week month is not considered to have had an interruption in the accumulation of consecutive months and does not have that month count as one of the 4 consecutive months. The ~~applicant/recipient~~ APPLICANT OR RECIPIENT shall meet one of the qualifications described in subparagraph (i) to qualify for a balance remaining in the 4-month count unless 12 consecutive months have elapsed in which ~~he~~ THE APPLICANT OR RECIPIENT has not been a recipient of

NMP-MA in [an AFDC-related] a TANF-related category or in a GA-related category with a child who was simultaneously a recipient in [an AFDC-related] a TANF-related category. If 12 consecutive months have elapsed, the employed ~~applicant/recipient~~ APPLICANT OR RECIPIENT is eligible for a new 4 consecutive month count.

[(v)] (IV) * * *

(B) Each employed ~~person~~ INDIVIDUAL in the ~~applicant/recipient~~ APPLICANT OR RECIPIENT group who received 4 months of the \$30 plus 1/3 income incentive deduction is eligible for an income deduction of \$30 per month during the next 8 consecutive months. The application of the \$30 incentive is treated as follows:

(I) Each employed ~~person~~ INDIVIDUAL in the ~~applicant/recipient~~ APPLICANT OR RECIPIENT group is eligible to receive the deduction for 8 consecutive calendar months.

(II) The ~~applicant/recipient~~ APPLICANT OR RECIPIENT is entitled to the \$30 income incentive deduction during a calendar month of the 8-month period for which the income of the ~~applicant/recipient~~ APPLICANT OR RECIPIENT is sufficient to qualify.

(III) The 8 months of eligibility for the \$30 income incentive deduction begins with the calendar month following the end of the 4 consecutive calendar months of the \$30 and 1/3 income incentive deduction.

(IV) The 8 months of eligibility are counted consecutively, whether or not MA is interrupted or income is sufficient to qualify for it.

* * * * *

[(4) *Other work incentive deduction.* A work incentive deduction of \$30 per month of the earned income after 4 consecutive months of the \$30 plus 1/3 of the remainder has been received is treated as follows:

(i) Each employed person in the NMP-MA applicant/recipient group is eligible to receive the deduction for 8 consecutive calendar months.

(ii) The applicant/recipient is entitled to the \$30 income incentive deduction during a calendar month of the 8-month period for which the income of the applicant/recipient is sufficient to qualify.

(iii) The 8 months of eligibility for the \$30 income incentive deduction begins with the calendar month following the end of the 4 consecutive calendar months of the \$30 and 1/3 income incentive deduction.

(iv) The 8 months of eligibility are counted consecutively, whether or not MA is interrupted or income is sufficient to qualify for it.]

* * * * *

CHAPTER 183. INCOME

EARNED INCOME

* * * * *

§183.23. [Income-in-kind] (Reserved).

[For assistance purposes, income-in-kind is shelter received in return for services rendered and is counted as earned income. The value of income-in-kind is the difference between the amount of the monthly rent actually paid and the amount of monthly rent which the individual would have been charged if he had not rendered a service. This value is not to exceed 33% of the family size allowance of the budget group or if the family size allowance is divided between two or more budget groups, 33% of the combined total family size allowance.]

* * * * *

UNEARNED INCOME

* * * * *

§183.32. Support.

Support paid by an LRR for a child or spouse, whether it is court-ordered or voluntary, a direct payment to the individual or assigned to the Department, is counted in determining eligibility and treated as follows:

(1) Support, court-ordered or voluntary, received ~~or anticipated to be received,~~ by the individual in the initial budget month is counted in determining that month's assistance payment.

(2) After the initial ~~budget month~~ AUTHORIZATION, support is collected by the Department and is not counted as income in computing the amount of the monthly assistance payments. The amount of support collected by the Department is used in determining the continued eligibility of the budget group.

* * * * *

§183.38. ~~Educational assistance.~~ (RESERVED).

[Educational assistance from scholarships, grants and loans not exempted in §183.81(3)(i) and (ii) (relating to income exemptions) is considered in determining eligibility. Only the amount which the person cannot verify as being used for tuition, mandatory fees, books related to the courses of study, child care expenses and transportation costs--if not residing in college housing and necessary for school attendance--is counted as income. If the educational assistance is received in one payment, average the income over the period covered by the loan, scholarship or grant.] ~~Federally funded student financial assistance, including college work study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income unless the assistance is provided solely to meet basic living needs.~~

* * * * *

GROSS INCOME TEST

§183.71. Gross income test. (RESERVED).

(a) ~~[A] An applicant budget group is ineligible for [AFDC/GA] TANF/GA for a calendar month determined prospectively, if the total gross earned and unearned income for a calendar month equals or exceeds the Income Eligibility Limit—Appendix B, Table 2 (relating to income eligibility limit (185% of standard of need))—or, if a special need exists, 185% of the sum of the special need allowance added to the standard of need—Appendix B, Table 1 (relating to standard of need). The Income Eligibility Limit and the standard of need are based on the size of the budget group and the schedule which is applicable to the county in which the budget group resides. The gross earned and unearned income of a recipient budget group is not subject to the gross income test.~~

(b) ~~Do not apply the test in subsection (a) when a lump sum payment is received by a member of the budget group or other person whose income is deemed available to the budget group. A period of ineligibility shall be determined as described in §183.105(4) (relating to increases in income).~~

~~(c) The total gross earned and unearned income to be considered includes:~~

~~(1) Calendar month gross income of the budget group including the calendar month gross income of a child in the budget group.~~

~~(2) Calendar month gross income of an LRR and, at the LRR's option, his dependents living with the budget group, who are not included in the budget group and who do not receive SSI, SBP, AFDC or GA.~~

~~(3) The amount remaining of the calendar month gross income of the stepparent, parent of an AFDC minor parent or sponsor after applicable disregards under §§183.91 and 183.93 (relating to LRR, parent of an AFDC minor parent and stepparent deductions; and sponsor deductions). If the income includes a lump sum payment, the lump sum income is considered under the requirements of §183.105(4)(iii).~~

~~(4) The gross income from self-employment is adjusted for expenses directly related to the production of goods and services, under §183.65 (relating to profit), to determine profit.~~

~~(d) The following income is excluded:~~

~~(1) Payments received under AFDC, SBP, SSI or GA.~~

~~(2) Income exempted in calculating the amount of need, under §183.81(3)-(30) (relating to income exemptions).~~

~~(3) The gross earned income of an AFDC dependent child or a GA child 17 years of age or younger from a Job Training Partnership Act of 1982 (29 U.S.C.A. §§1501-1781) program. This income is exempt for up to 6 calendar months per calendar year.~~

~~(4) The gross earned income of a full-time student who is an AFDC dependent child or a GA child 17 years of age or younger. This income is exempt for up to 6 calendar months per calendar year.~~

* * * * *

INCOME EXEMPTIONS

§183.81. Income exemptions.

The following income is not considered in determining the amount of the monthly assistance payment:

* * * * *

(3) *Educational loans, and grants AND WORK-STUDY*

~~INCOME. Educational loans and grants to students are considered as follows THE FOLLOWING DO NOT COUNT AS INCOME:~~

(i) [Federal loans and grants to undergraduate students made or insured under a program administered by the Commissioner of Education are excluded.] Federally funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income unless the assistance is provided solely to meet basic living needs.

EDUCATIONAL ASSISTANCE IN THE FORM OF LOANS, GRANTS AND SCHOLARSHIPS.

~~-----~~

(ii) ~~College Work Study Program (CWSP) earnings of undergraduate students are excluded~~ WORK-STUDY INCOME.

[(iii) Educational assistance from the Veterans' Administration received by a veteran is excluded only to the extent verified as used for educational expenses.

(iv) Grants and scholarships or awards from colleges, schools or from civic, fraternal and alumni organizations are excluded only to the extent verified as used for educational expenses.]

* * * * *

(29) *Support pass-through.* The first \$50 per budget month of court-ordered and voluntary support payments received by the budget group, excluding arrearages.

* * * * *

INCOME DEDUCTIONS

§183.94. Eligibility for TANF earned income deductions.

[For expenses related to employment of each individual in the TANF budget group, subject] Subject to the limitations in §183.97 (relating to ineligibility for disregards from earned income for [AFDC] TANF and GA), [disregard in the following order] the earned income of each employed individual in the TANF budget group is treated as follows:

(1) [*Work expenses.* The first \$90 per month from the earned income of each client who is employed.] An applicant who has been a recipient of TANF in 1 of the 4 calendar months prior to BEFORE this application is eligible to receive a continuous 50% disregard from gross earned income.

(2) [*Earned income incentive deduction.* As an incentive to eligible AFDC clients to obtain and retain employment, earned income incentive deductions, subject to the limitations in §183.96 (relating to interruptions in the 4 consecutive months of the earned income incentive deduction for AFDC and GA) and §183.97, are made as follows:] The applicant who has not been a recipient of TANF in

one 1 of the 4 calendar months prior to BEFORE this application is eligible to receive a continuous 50% disregard if the applicant's income after application of the following deductions is less than the standard of need for the budget group as specified in Appendix B, Table 1 (relating to standard of need).

(i) [After the deduction allowed in paragraph (1) has been made, each employed client is eligible for a deduction of \$30 plus 1/3 of the remaining net earned income during 4 consecutive calendar months of employment.]
The first \$90 per month from gross earned income.

(ii) [After the deduction allowed in paragraph (1) has been made, each employed client is eligible for a deduction of \$30 during the next 8 consecutive months of employment. An applicant or recipient is entitled to the \$30 income incentive deduction during any calendar month of this 8-month period for which the income of the applicant or recipient is sufficient to qualify. The 8 months of eligibility are counted consecutively, beginning with the calendar month following the end of the 4 consecutive calendar months in which the \$30 and 1/3 income incentive deduction was allowed, whether or not assistance is interrupted or income is sufficient to qualify for it.]
Personal expenses subject to the limitations of paragraph (3).

(iii) [An applicant who has been a recipient of AFDC in 1 of the 4 calendar months prior to this application is eligible to receive the full \$30 and 1/3 income incentive deduction for 4 consecutive calendar months subject to the limitations in subparagraph (v).] Unearned income and lump sum income deductions as specified in §183.98 (relating to unearned income and lump sum income deductions).

[(iv) An applicant who has not been an AFDC recipient in 1 of the 4 calendar months prior to this application is eligible to receive the full \$30 and 1/3 income incentive deduction for 4 consecutive calendar months only if the applicant's income, after deductions in paragraphs (1) and (3) and §183.98 (relating to unearned income and lump sum income deductions) is less than the standard of need for the budget group, and subject to the limitations in subparagraph (v).

(v) An applicant or recipient who has received the \$30 and 1/3 income incentive deduction for 4 consecutive calendar months is not eligible to receive the deduction again until 12 consecutive calendar months have elapsed in which he has not been a recipient of an AFDC cash grant. When assistance is terminated during the 8 consecutive calendar month period of the \$30 income incentive deduction, the 12 consecutive months begin in the first month following the month of termination.]

* * * * *

§183.96 [Interruptions in the 4-consecutive months of the earned income incentive deduction for AFDC and GA] (Reserved).

[(a) An individual who has not received the earned income incentive disregard for 4 consecutive payment months because of application of §183.97 (relating to ineligibility for disregards from earned income for AFDC and GA) is deemed to have received the disregard in the month of disqualification, and a month of disqualification counts for purposes of the 4 consecutive month period.

(b) An individual who does not receive a cash payment in a month because of the \$10 minimum check requirements has that month counted for the purpose of the 4 consecutive months.

(c) For AFDC, if there is no earned income to be adjusted against the grant after the application of §183.94(1) and (3) (relating to AFDC earned income deductions), that month does not count as one of the 4 consecutive months for an individual. The individual is eligible for a new 4 consecutive month period.

(d) An individual who has had a grant suspension or termination due to receipt of a regularly recurring extra paycheck within a 5-week month is not considered to have had an interruption in the accumulation of consecutive months, and does not have that month count as one of the 4 consecutive months. The individual is eligible to receive the incentive for the balance remaining in the 4-month period.

(e) An individual whose receipt of 4 consecutive months of work incentive is interrupted by loss of income with good cause, as defined in Chapter 165 (relating to Employment and Training Program) is eligible for a new 4 consecutive month period.]

§183.97. Ineligibility for disregards from earned income for [AFDC] TANF and GA.

The deductions in §§183.94 and 183.95 (relating to [AFDC] eligibility for TANF earned income deductions; and GA earned income deductions) do not apply to the budget month income considered for the corresponding payment month for an applicant or recipient to whom one of the following conditions applies:

* * * * *

[(4) He voluntarily requested that assistance be terminated for the primary purpose of avoiding receipt of the earned income incentive for 4 consecutive months.]

* * * * *

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 is lump sum income, the following applies:

* * * * *

(iii) The amount of lump sum income received by the nonassistance stepparent, parent of an ~~AFDC A~~ TANF 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 A~~ TANF 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~~ A TANF minor parent subsequent to the month of receipt is a resource to that ~~person~~ INDIVIDUAL 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.

* * * * *

CHAPTER 187. SUPPORT FROM RELATIVES NOT LIVING WITH THE CLIENT
SUPPORT PROVISIONS FOR [AFDC/GA] CASH ASSISTANCE

§187.21. [Policy] General policy.

[(a)] *Legal bases for support requirements.* The Support Law (62 P. S. §§1971--1977) provides authority to the courts to order or direct support to needy ~~persons~~ INDIVIDUALS from legally responsible relatives (LRR) upon petition from the needy ~~person~~ INDIVIDUAL or the Department. The Public Welfare Code (62 P. S. §§101--1503) requires the Department to grant assistance only to those ~~persons~~

INDIVIDUALS who [are without sufficient resources to maintain themselves] apply for and meet all conditions of eligibility. By law, then, [LRR's] LRRs will be a potential resource to ~~persons~~ INDIVIDUALS applying for or receiving assistance. The Support Law (62 P.S. §§1971--1977), 23 Pa. C.S. §§4301--5104 and 7101--8415, and the Public Welfare Code (62 P.S. §§101--1503) mesh to make it mandatory to explore and develop the resource that an LRR may provide to ~~a client~~ AN INDIVIDUAL. Under the child support program, support collection and paternity determination services will also be made available upon request to persons INDIVIDUALS who are not applying for or receiving assistance. The domestic relations section in each county has been designated to process requests for support services.

[(b) Automatic assignment of support rights to the Department.

Acceptance of public assistance operates as an assignment to the Department, by operation of law, of the assistance recipient's rights to receive support on his own behalf and on behalf of any family member with respect to whom the recipient is receiving public assistance. The assignment is effective at the time the recipient is determined to be eligible for public assistance and remains in effect until the termination of public assistance payments. The assignment shall be effective only up to the amount of AFDC/GA received.

(c) *Responsibilities of Claim Settlement Child Support Unit.* The Bureau of Claim Settlement Child Support Unit will have the responsibility for securing support in cases involving desertion or abandonment. The Support Unit responsibilities will include, but will not be limited to the following:

- (1) Assisting, when necessary, in locating absent parents.
- (2) Establishing and enforcing support orders.
- (3) Initiating legal action for establishing paternity for a child born out-of-wedlock.
- (4) Collecting support payments.

(d) *Effect of automatic support order assignment on the grant.* When the applicant is determined eligible for assistance, the assistance unit is entitled to receive the appropriate family size allowance. Payments received from a support order will not be adjusted as income.

(e) *Treatment of support collections.* For those cases where support payments have been made payable to the Department, the Bureau of Claim Settlement Child Support Unit will transmit to the County Assistance Office a monthly printout of the amount of collection received which represents a current payment on the required support obligation for that month. This information will be used by the County Assistance Office to determine if the money collected through support order, when treated as income, will be sufficient to make the family ineligible for an assistance payment. If the case is determined ineligible on this basis, the support collection will be considered as income and the County Assistance Office will be responsible for the following:

- (1) Notifying the family of closing action and reason via the Form 162-A process.
- (2) Promptly transmitting this closing action, via Form PA 293, to Claim Settlement Support Liaison Agent assigned to the CAO for processing so that the support payments can be mailed directly to the family. The worker will prepare the Form PA 293 for transmittal at the same time the worker prepares the Form PA 764, Authorization for Case Closing.

(f) *Timing the effect.* Timing the effect of support collections will conform with the following:

(1) An essential component in the treatment of support collections is the rapid and complete interchange of information between the County Assistance Office and the Claim Settlement Child Support Unit. This is necessary to insure the families continued receipt of income.

(2) The Claim Settlement Child Support Unit will transmit the notification, or printout, of support collections received to the County Assistance Office at the beginning of the month following the month of collection.

(3) Upon receipt of this information, the County Assistance Office will determine the eligibility of the family for an assistance payment as soon as feasible, but no later than the second month after the month in which the notification is received by the CAO.

(g) *Form PA 293 (Child Support Action Notice).* Use of Form PA 293 will be as follows:

(1) The County Assistance Office will use the Form PA 293, Child Support Action Notice, to transmit information to the Child Support Unit regarding case dispositions for spouse and parent of unemancipated minor children.

(2) Whenever a child support case is discontinued, transferred to another county, or reopened within a period of ninety days following closure, the County Office will complete the Form PA 293 in duplicate, identifying the appropriate action taken. This form will be forwarded to the Child Support Unit at the same time the appropriate budget action is taken in the case. A copy of the Form PA 293 is retained in the case record.

(3) From the information transmitted on the Form PA 293, the Child Support Unit will determine the appropriate action to be taken by the Agency with regard to support services currently received by the client, such as reassignment of an existing court order to the beneficiary, and the like.]

§187.22. Definitions.

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

[*Alimony*--An order for support granted by the court to a spouse or former spouse in conjunction with a decree grant, a divorce, or annulment.]

Arrears--Past due and unpaid support.

BCSE--Bureau of Child Support Enforcement--The organizational unit in this Commonwealth responsible for supervising the State Plan for Child Support Enforcement under Title IV-D of the Social Security Act (42 U.S.C.A. §§651--669b).

Budget group--One or more related or unrelated individuals who occupy a common residence or would occupy a common residence if they were not homeless individuals and whose needs and eligibility are considered together in determining eligibility for cash assistance under one category of assistance.

CAO--County assistance office--The local office of the Department responsible for the determination of eligibility for cash, food stamps and MA Programs.

Cash assistance allowance--The amount of money that is based on the monthly family size allowance, reduced by the net income of the budget group. The family size allowance is described under §175.23(a) (relating to requirements).

[*Child*--Natural or adopted under 21 years of age.

Child born out-of-wedlock--A child will be considered to be born out-of-wedlock in the following instances:

(i) When the mother of the child is unmarried when the child is born, except when marriage was terminated by death or divorce between conception and birth, or declared legally void.

(ii) The mother of a child born during marriage names a person other than her husband as the father of the child.

(iii) There is evidence that the husband of the mother of the child has been separated from the mother during the 12 months immediately prior to the birth of the child. When the natural parents of a child born out-of-wedlock marry at a later date, the child will become legitimated just as if he had been born during lawful marriage. In such a case, the father will become an LRR and the applicable LRR regulations will apply. Accordingly, pending paternity action will be terminated.]

DOMESTIC VIOLENCE—ONE OR MORE OF THE FOLLOWING:

- (i) PHYSICAL ACTS THAT RESULTED IN, OR THREATENED TO RESULT IN, PHYSICAL INJURY TO THE INDIVIDUAL.
- (ii) SEXUAL ABUSE.
- (iii) SEXUAL ACTIVITY INVOLVING A DEPENDENT CHILD.
- (iv) BEING FORCED AS THE CARETAKER RELATIVE OF A DEPENDENT CHILD TO ENGAGE IN NONCONSENSUAL SEXUAL ACTS OR ACTIVITIES.
- (v) THREATS OF, OR ATTEMPTS AT, PHYSICAL OR SEXUAL ABUSE.
- (vi) MENTAL ABUSE.
- (vii) NEGLIGENCE OR DEPRIVATION OF MEDICAL CARE.

DRS--Domestic relations section--The division of a court of common pleas responsible for establishing and enforcing support orders.

Establishing paternity--The process that determines the legal father of a child.

[LRR--Legally Responsible Relative--Husband, wife or parents of an unemancipated minor child. A putative father is not an LRR unless one of the following conditions applies:

- (i) Paternity is legally established by court action.
- (ii) The child born out-of-wedlock is legitimated by the legal marriage of the mother of the child to the putative father.
- (iii) The putative father signs an Acknowledgement of Paternity form, H105.181, under §153.44(e)(1) (relating to procedures) for a child born within this Commonwealth, which is filed with the Department of Health, and one of the following conditions exists:
 - (A) The mother also signs the Acknowledgement of Paternity form.

(B) The putative father lives with the child for whom paternity is being claimed and the mother is the absent parent.]

LRR--Legally responsible relative--The spouse, including common-law, of the applicant/recipient APPLICANT OR RECIPIENT of cash assistance, and OR the biological or adoptive parent of an unemancipated minor child for whom cash assistance is sought or received.

Obtaining support--Establishing, modifying or enforcing a support order.

[Spouse--The legally married person, including common-law.]

Support--A judgment, decree or order whether temporary, final or subject to modification, imposed or imposable by a court or an administrative agency of competent jurisdiction for the support and maintenance of either a child or spouse, or both, which provides for monetary support, health care, arrears or reimbursement, and which may include other relief.

Unemancipated minor child--An individual who is under 18 years of age, or an individual 18 years of age or older but under 21 years of age, who has not graduated from high school, is not married and is in the care and control of a parent or caretaker.

§187.23. Requirements.

(a) [*Unemancipated minor children.* Because the responsibility of a parent for an unemancipated minor child is seen as greater than that for the spouse, separate requirements have been established for securing support from absent parents for their children. The requirements will be applicable to recipients or applicants for AFDC when the child's eligibility is based on absence of a parent from the home and, when the child is born out-of-wedlock, without regard to whether paternity has been established.] Applicability. This chapter applies to applicants for and recipients of cash assistance if there is: The reported absence of a parent from the home of an unemancipated minor child; a putative father for an unemancipated minor child; or a spouse absent from the home. The absence of a parent from the home is determined according to the requirements under §153.44(a) (relating to procedures).

[(1) *Referral to Domestic Relations Section.* Referral to DRS will conform with the following:

(i) When the eligibility of a child for AFDC is based on continued absence of a parent from the home, prior to the application interview, the applicant parent or other caretaker with whom the child is living will be referred to the DRS, with the Application for Support Services form. The applicant shall return the form to the CAO worker, completed by a DRS official, as verification of DRS action taken.

(ii) DRS referral will not be required in the following circumstances:

(A) The applicant parent/caretaker provides verification of a support complaint having been filed within the last 90 days.

(B) The applicant parent/caretaker provides verification of an existing Order of Support having been established within the last 12 months.

(C) The applicant parent/caretaker initiates a good cause claim as set forth in subparagraph (iii).

(D) A mutual agreement exists between the DRS and the Department regarding local referral procedures.

(iii) The CAO worker will provide an AFDC applicant parent/caretaker with the opportunity to claim good cause as an exception to cooperation requirements, prior to the application interview. If the applicant initiates a claim for good cause as set forth in paragraph (3), the Application for Support Services form will be completed, but no support activity initiated pending final disposition of the good cause claim.

(2) *Cooperation.* As a condition of continued eligibility for AFDC under §141.21(a) (relating to policy), a caretaker/relative with whom the child is living will be required to cooperate with the Department in identifying and locating the absent parent, establishing the paternity of a child born out-of-wedlock and obtaining support payments, unless a claim for good cause is pending or determined to exist, as provided in paragraph (3). The term Cooperate includes the following:

(i) Appearing at the offices of the local CAO or DRS as necessary to perform the following:

(A) Provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or recipient caretaker/relative that is relevant to achieving support from the absent parent.

(B) Sign the necessary legal forms required to file petitions for support.

(ii) Appearing as a witness at court or other hearings or proceedings necessary to achieve support from the absent parent.

(iii) Paying to the Claim Settlement Support Agency child support payments received from the absent parent after an assignment of support rights has been made to the Department and the client is receiving a full allowance.

Payments will be turned over to the Child Support Agency only because the client will be receiving a full assistance check.

(3) *Good cause as an exception to cooperation requirements.*

Cooperation requirements will be waived if the caretaker/relative establishes that he has good cause for refusing to take support or paternity action or both against the absent

parent or putative father, because to do so would not be in the best interest of the child. Prior to requiring cooperation, the CAO will notify an applicant or recipient of the right to claim good cause and the requirements applicable to a good cause determination. Form PA 173-WP will be used as the good cause notice to the applicant or recipient. The Form PA 173-WP sets forth the circumstances under which the caretaker/relative may claim good cause and lists the types of evidence the client may present to corroborate his claim as provided in subparagraphs (i) and (ii).

(i) Circumstances under which cooperation may be against the best interest of the child are as follows:

(A) The client's pursuit of paternity or support action is reasonably expected to result in either of the following:

(I) Serious physical or emotional harm to the child.

(II) Serious physical or emotional harm to the mother or other caretaker/relative with whom the child is living to the degree that it reduces his capacity to care for the child adequately.

(B) The child was conceived as a result of incest or rape.

(C) Legal proceedings for the adoption of the child are pending before a court.

(D) The relinquishing of the child for adoption is currently under resolution with a public or private social agency and discussions have not gone on for more than 3 months.

(ii) A good cause claim may be corroborated with the following types of evidence:

(A) Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or other caretaker/relative.

(B) Medical records which indicate the emotional health history and present emotional health status of the child or caretaker/relative; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the child or caretaker/relative.

(C) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or rape.

(D) Court documents or other records which indicate that legal proceedings for adoption are pending.

(E) A written statement from a public or private Social Agency that the caretaker/relative is currently being assisted by the Agency to resolve the issue of whether to keep the child or relinquish him for adoption.

(F) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

(iii) The applicant or recipient caretaker/relative has the burden of proving the existence of his good cause claim and must provide the corroborative evidence required to support the claim within 20 days from the day the claim was made. In exceptional cases, when it has been determined, with supervisory approval, that additional time will be needed by the client because of difficulty in obtaining the evidence, a reasonable additional period of time will be granted.

(iv) If requested by the caretaker/relative, the county staff will provide assistance in securing the needed evidence by advising how to obtain specific documents that may be available to him and by undertaking to obtain any specific documents the client is not able to obtain on his own.

(v) In exceptional cases where the applicant or recipient's claim is based on the anticipation of physical harm and he is unable to provide corroborative evidence to support the claim because none is available, the caretaker/relative must assume the burden for establishing the credibility of the claim without the required evidence, as well as explaining why no evidence is available. In these situations, the county staff will conduct an investigation of the claim, the results of which should verify the credibility of the client. If the caretaker/relative's statement and the investigation which is conducted satisfies the county staff that the client does have good cause for refusing to cooperate, the claim will be considered as valid without corroborative evidence. The basis for this decision which is subject to supervisory review and approval, will be recorded in the case record.

(vi) In cases where the caretaker/relative's statement of the circumstances, together with the corroborative evidence supplied do not provide sufficient basis for making a determination, the county staff may find it necessary to

conduct an investigation of the claim in order to determine whether good cause does, or does not exist. If an investigation is deemed necessary, the caretaker/relative will be required to provide the county staff with sufficient information, such as, name and address of the putative father or absent parent, if known, to permit the investigation. However, the absent parent or putative father will not be contacted unless determined to be necessary to establish the good cause claim of the caretaker/relative. The county staff will notify the caretaker/relative prior to making contact with the absent parent or putative father to enable him to present additional corroborative evidence or information so that the contact becomes unnecessary, withdraw the application for assistance, have the case closed, or have the good cause claim denied with the right to appeal and a fair hearing as provided under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(4) *Determining good cause for refusing to cooperate.* In cases where the applicant or recipient caretaker/relative initiates a claim of good cause as an exception to cooperation requirements, the County staff will make a finding as to whether good cause exists. This finding will be based on the corroborative evidence supplied by the client and the investigation if deemed necessary. The good cause determination will be made on a case-by-case basis and the final decision requires a subjective judgment on the part of the County staff. The decision will be based on the weight, sufficiency, and quality of the gathered evidence.

(i) The County staff will make a determination as to whether or not good cause exists within a time frame of 45 days from the day the good cause claim was initiated by the caretaker/relative. If additional time is needed to verify the client's claim because the information required cannot be obtained within the 45-day time frame, or the client did not provide corroborative evidence within the period required as set forth in paragraph (3)(iii), the worker will record this information in the case record.

(ii) In situations where investigation of a good cause claim is necessary, the determination will be based on any verifying information secured that will corroborate the statements of the applicant/caretaker/relative regarding the circumstances. The good cause circumstance must be confirmed by the investigation and supported, to the extent possible, by written statements.

(iii) In determining good cause based on physical or emotional harm to the parent, the circumstances must be of a serious nature that they would reduce the capacity of the applicant/caretaker/relative to care for the child or children adequately. In situations where the good cause claim is based solely on anticipation of emotional harm to the child or caretaker/relative, the corroborative or documentary evidence provided by the client to support this claim should indicate the

emotional health history of the caretaker/relative or the child, the present emotional health status, the intensity and probable duration of the emotional impairment.

Supportive evidence submitted from a mental health professional shall be defined as statements written by persons who have obtained licensure or certification, if applicable, or have received a degree in defined areas of mental health including, but not limited to, psychiatry, social work, psychology, nursing, occupational therapy, or recreational therapy. In making the good cause determination, the County staff will evaluate the evidence in relation to the degree of cooperation that will be required of the caretaker/relative as well as the extent to which the client will be involved in the support activity.

(iv) In the process of making a final determination of whether good cause does or does not exist, county staff will give the Child Support Unit the opportunity to review and comment on its findings and the basis for the decision proposed. Recommendations subsequently received from the Child Support Unit will be considered when making the final determination. The Child Support Unit will be subsequently notified of the final decision made on each case. Form PA 173-GC will be used for the interchange of information between County staff and the Child Support Unit.

(v) In a case where a claim of good cause has been initiated by the caretaker/relative, prior to making a final determination within the allotted 45-day time frame, the county staff will complete, in duplicate, the Form PA 173-GC good cause determination notice, indicating the proposed decision and basis for the decision. The Form PA 173-GC will be signed and dated by the worker and the original transmitted to the Child Support Unit for their review and recommendations. The Child Support Unit will subsequently be notified via the Form PA 173-GC, of the final decision made in a case as to whether or not the caretaker/relative has good cause for refusing to cooperate. If the caretaker/relative feels that the decision made is unfair, discriminatory or incorrect, he has the right to appeal and a fair hearing, as provided under Chapter 275. The Child Support Unit will be given the opportunity to participate in a hearing resulting from the appeal of the caretaker/relative.

(vi) In those cases where a finding of good cause has been made, the Child Support Unit will not attempt to establish paternity nor collect support. The caretaker/relative will be notified in writing of the final determination as to whether good cause does or does not exist, including basis for the determination, and the worker will record the decision and supporting evidence.

(vii) In cases where a claim for good cause is initiated by the caretaker/relative after the initial support referral has been made, the County Assistance Office will promptly notify the Child Support Unit, via memorandum, that a determination is pending to ensure that all support and paternity activities are suspended until notification of a final determination.

(viii) In cases where a finding of good cause was based on a circumstance that is subject to change, the decision will be reviewed by county staff at the time of a redetermination of eligibility. If it is determined that the circumstances have changed and good cause no longer exists, cooperation requirements as set forth under paragraph (2) become applicable.

(ix) A statistical reporting form, SSA-4681, Case Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Support, will be used by the counties for reporting specific data required by the Department, relating to good cause claims. For a good cause claim, the county staff will complete a SSA-4681, in triplicate, and transmit the original and first copy of each form to the Department's Research and Statistical Unit at the end of each month. The second copy of the SSA-4681 will be retained in the case record or clerical control file.

(5) *Responsibilities of the County Assistance Office.* Except in those cases where a claim for good cause is pending or has been established, if the caretaker/relative fails to cooperate with the Domestic Relations Section or the Child Support Unit with regard to any one of the support activities specified in paragraph (2), the Child Support Unit will notify the County Assistance Office via memorandum.

(i) Upon receipt of the notification, the County Assistance Office will send a Form PA 162-A to the caretaker/relative proposing action to remove the caretaker/relative from the grant and establishing protective payment for the child or children by reason of failure to comply with cooperation requirements. The caretaker/relative subsequently will have the opportunity to take whatever action is required to establish continuing eligibility or appeal the decision, as set forth in §133.4 (relating to procedures).

(ii) The CAO worker will be responsible for informing the caretaker/relative that the keeping of scheduled appointments with the DRS for interview with a Support Official is a condition of eligibility and that failure to comply will necessitate adverse action under subparagraph (i) in the case.

(6) *Responsibilities of the Domestic Relations Section.* The Domestic Relations Section of the court in a county has been designated as the Child Support Unit Intake Office to process requests for support. Responsibilities of the DRS in this regard will include the following:

- (i) Conducting initial support interviews.
- (ii) Filing petitions for support.
- (iii) Conducting prehearing conferences to determine special needs that may exist, such as health problems, doctor bills and the like.
- (iv) Initiating location activity on a local level.
- (v) Conducting prehearing conferences with client and defendant for possible reconciliation or settlement out of court.]

(b) [*Requirements for seeking support from a spouse.* Requirements for seeking support from a spouse will be as follows:] Cooperation criteria REQUIREMENTS for child support. As a condition of eligibility for cash assistance, every applicant or recipient seeking or receiving cash assistance on behalf of an unemancipated minor child shall cooperate in establishing paternity of an

unemancipated minor child with respect to whom assistance is sought and cooperate in obtaining support from an LRR for the unemancipated minor child, unless the applicant or recipient has ESTABLISHES good cause for failing to do so. Cooperation includes taking the following actions:

(1) *[General.* The following will constitute the general requirements for securing support from a spouse and the method used for determining the financial ability of the spouse to support:] Identifying the parents of an unemancipated minor child for whom assistance is sought or received, including appearing for scheduled genetic testing with the child and submitting to the testing.

(i) *[The client will be required, as a condition of eligibility for assistance, to provide sufficient information about the location of the spouse. The client will be expected to assist in locating a missing LRR to permit a determination of the ability of the spouse to provide support or court action as provided in §187.24(h) (relating to procedures).]* Failure of the mother to identify by name the father of an unemancipated minor child shall create a presumption of noncooperation which may be rebutted only by clear and convincing evidence.

(ii) *[Further steps to seek support will not be required whenever the information provided indicates that the spouse is either of the following:]* If the applicant or recipient provides the names of two putative fathers subsequently

excluded from paternity by genetic testing, the second exclusion shall create a presumption of noncooperation, which may be rebutted only by clear and convincing evidence.

[(A) Receiving assistance, including SSI or SBP.

(B) Mentally or emotionally unstable and the evidence clearly indicates that further efforts to obtain support would expose the client to danger or injury. The Executive Director or his delegate must approve this decision.]

(2) [*Providing information about the spouse's financial circumstances.* Information about the financial circumstances of the spouse will conform with the following:] Keeping scheduled appointments with the Department or the DRS.

[(i) The client may be able to provide the information himself or obtain it directly from the spouse. The County Assistance Office will help the client secure the information when necessary.

(ii) If the spouse refuses to provide the information and it cannot be obtained in any other way, court action is required, as set forth in §187.24(h).

(iii) If the client refuses to provide the information or to take specific steps that appear warranted by the circumstances, including giving his consent for the County Assistance Office to contact the spouse directly, he will be advised that the Department will initiate court action in accordance with §187.24(h), unless the client withdraws his request for assistance.]

(3) *[Providing information about the location of the spouse.*

Information about the location of the spouse shall be provided in accordance with the following:] Providing truthful and accurate information and documents requested by the Department or the DRS.

(i) When the whereabouts of a [spouse] parent or putative father are unknown, the [client] applicant or recipient will be required to take whatever steps are appropriate to the individual circumstances to locate the missing [spouse] parent or putative father. This may include contacting relatives and friends for information about the whereabouts of the [spouse] parent or putative father or giving consent to the [County Assistance Office] CAO to contact other agencies, relatives and other individuals, or possible employers and similar resources.

(ii) [County staff] The CAO will provide whatever help is appropriate to the individual circumstances of the [client needs] applicant/recipient APPLICANT OR RECIPIENT to assist in locating the missing [spouse] parent or

putative father and supplement the efforts of the [client] ~~applicant/recipient~~ APPLICANT OR RECIPIENT by checking appropriate governmental records[, such as OASDI, Bureau of Employment Security, Bureau of Motor Vehicles and the like].

(iii) Together, [county staff] the CAO and [client] the applicant/recipient APPLICANT OR RECIPIENT will plan and agree on the specific steps to be taken to locate the missing [spouse] parent or putative father. Assistance will be [granted] authorized or continued on the agreement of the [client] ~~applicant/recipient~~ APPLICANT OR RECIPIENT to take the specific steps [that appear warranted by the circumstances. If the client refuses to seek the spouse or does not take steps agreed upon, or deemed necessary,] within the time set for doing so [, assistance will be discontinued for those members of the assistance unit for whom the missing relative is legally responsible].

(4) Signing and returning any forms requested by the Department or the DRS.

(5) Appearing as a witness and providing testimony at judicial and other hearings as requested by the DRS.

(6) Paying to the Department any support payment received directly from an absent parent after an assignment of support has been made.

(c) Cooperation criteria for spousal support. As a condition of eligibility for cash assistance, every applicant or recipient seeking or receiving cash assistance on behalf of himself and for whom there is an absent spouse shall cooperate in obtaining support unless there is THE APPLICANT OR RECIPIENT ESTABLISHES good cause for failing to do so. Cooperation includes the following:

(1) Naming the absent spouse.

(2) Keeping scheduled appointments with the Department or the DRS.

(3) Providing truthful and accurate information and documents requested by the Department or the DRS.

(i) When the whereabouts of a spouse are unknown, the applicant or recipient ~~will be required to~~ SHALL take whatever steps are appropriate to the individual circumstances to locate the missing spouse. This may include contacting relatives and friends for information about the whereabouts of the spouse or giving consent to the CAO to contact other agencies, relatives and other individuals or possible employers and similar resources.

(ii) The CAO will provide whatever help is appropriate to the individual circumstances of the ~~applicant/recipient~~ APPLICANT OR RECIPIENT to assist in locating the missing spouse and supplement the efforts of the ~~applicant/recipient~~ APPLICANT OR RECIPIENT by checking appropriate governmental records.

(iii) Together, the CAO staff and the ~~applicant/recipient~~ APPLICANT OR RECIPIENT will plan and agree on the specific steps to be taken to locate the missing spouse. Assistance will be authorized or continued on the agreement of the ~~applicant/recipient~~ APPLICANT OR RECIPIENT to take the specific steps within the time set for doing so.

(4) Signing and returning any forms requested by the Department or the DRS.

(5) Appearing as a witness and providing testimony at judicial and other hearings as requested by the DRS.

(6) Paying to the Department any support payment received directly from an absent spouse after an assignment of support has been made.

(d) Cooperation prior to authorization. Except as provided in paragraphs (3) and (4), every applicant or recipient of cash assistance shall cooperate in establishing paternity and obtaining support. The applicant or recipient shall:

(1) Appear before the DRS or other applicable division of the court of common pleas and provide to the CAO certification from the DRS of cooperation by the applicant or recipient of cash assistance in establishing paternity and in obtaining support.

(2) Cooperate with the procedures established for the county when a waiver of the personal appearance requirement is in place. The Secretary is authorized to waive the personal appearance requirement under paragraph (1) if another procedure would be as effective and efficient and a family court or DRS requests a waiver.

(3) In the case of a newborn, cooperate with the requirements under §133.23(b)(4)(v) (relating to requirements).

(4) File a good cause claim. The cooperation requirements are waived from the time a good cause claim is filed until the CAO, court of common pleas or DRS makes a determination on the claim. If the CAO, court of common pleas or DRS determines that good cause exists, the cooperation requirements are waived until the good cause waiver expires AS LONG AS THE GOOD CAUSE EXISTS.

(e) Assignment of support rights. Acceptance of cash assistance shall operate as an assignment to the Department, by operation of law, of the assistance recipient's rights to receive support, on the recipient's own behalf and on behalf of any family member with respect to whom the recipient is receiving cash assistance. The assignment shall only be effective ONLY up to the amount of assistance received. The assignment shall take effect at the time that the recipient INDIVIDUAL is determined to be eligible for assistance. Upon termination of assistance payments, the assignment of support rights shall terminate, provided that any amount of unpaid support obligations shall continue as an obligation to and collectible by the Department to the extent of any unreimbursed assistance consistent with Federal law.

§187.24. [Procedures] (Reserved).

[(a) *General.* For GA cases, the findings of the Department on the ability of the spouse to support will be exclusively for the purpose of determining need for assistance. When, under the standards of the Department, the spouse appears able

to support, the result is termed an expected contribution. However, the court alone will have the authority to order an LRR to support his dependents and it will always be the right of the client to ask the court to decide how much support the spouse must give.

(b) *AFDC referral to Domestic Relations Section.* For AFDC applicants, when the eligibility of a child is based on continued absence of a parent from the home, referral to the DRS will be made in accordance with the following:

(1) *General.* General procedures for referral to DRS will be as follows:

(i) Prior to the application interview, the caretaker/relative will be referred, with the Application for Support Services form, to the local County Domestic Relations Section. See §187.23(a)(1)(ii) (relating to requirements) for exceptions to this requirement.

(ii) The CAO worker preparing the Application for Support Services form will be responsible for informing the caretaker/relative of the referral requirements prior to the application interview. The client will be informed that cooperation is a condition of eligibility and failure to comply will result in the caretaker/relative being ineligible for assistance with protective payments authorized for the child or children. The Application for Support Services form shall be completed by a DRS official and returned to the CAO as verification of DRS action taken.

(iii) At the time of the support interview, the caretaker/relative will be required to cooperate by providing all known information necessary for identification and location of the absent parent as well as by providing all known information regarding the circumstances of the absent parent, as set forth in §187.23(a)(2)(i)(A).

(iv) If the caretaker/relative is unable to provide any part of the information requested regarding the absent parent, but does cooperate to the extent that he is able, the caretaker/relative will continue to be eligible for assistance.

(v) If the client later secures new or additional information regarding the absent parent, he will be referred to the DRS Support Official for updating or correcting the original information provided. The Support Liaison Agent will be responsible for updating the information contained in the Claim Settlement Central Registry files as set forth in §153.44(b)(2)(ii) (relating to procedures).

(2) *Application for Support Services form.* The Application for Support Services form will be in accordance with the following:

(i) The Application for Support Services form will be used to perform the following:

(A) Notify the Bureau of Claim Settlement Child Support Unit of the furnishing of AFDC in all cases where the eligibility of a child is based on continued absence of a parent from the home. The Application for Support Services form will be forwarded to the Claim Settlement Support Liaison Agent assigned to the CAO for processing within 2 working days of authorization or at the time such absence occurs while the child is receiving AFDC, as set forth in §153.44(a)(1).

(B) Refer the caretaker/relative to the County DRS prior to the application interview.

(C) Notify the court of all eligible AFDC/GA cases authorized on the basis of continued absence of a parent or spouse to effect automatic assignment of support payments to the Department.

(D) Provide DRS validation of specific support action initiated by the applicant parent/caretaker for CAO eligibility determination purposes.

(ii) The Application for Support Services form will be prepared in quadruplicate by the CAO worker prior to the application interview and will be processed as provided by instructions noted on the form.

(A) The CAO worker will explain to the applicant the procedure used by the local DRS and the CAO in completing the form.

(B) (Reserved).

(C) (Reserved).

(D) (Reserved).

(iii) In cases where the caretaker/relative initiates a claim for good cause under §141.21(d)(2)(i) (relating to policy) and a determination is pending, a referral will not be made to the DRS. Following the application interview, the form will be processed as applicable to the case situation.

(c) *Referral of nonassistance persons.* Under provisions of the Child Support Program, support collection and paternity determination services will also be made available to nonassistance persons upon request. Since the Domestic Relations Office in each County has been designated as the Child Support Unit Intake Office to process requests for support services, all nonapplicant persons requesting such services through the CAO will be referred directly to the local Domestic Relations Office.

(d) *Spouse or former spouse under a court-ordered support.* Court-ordered support, as used in this section, will include alimony payments. For GA cases, a spouse or former spouse under a court order shall comply with the following:

(1) *Automatic assignment and effect of court orders on the grant.* Automatic assignment and effect of court orders on the grant will be in accordance with the following:

(i) Upon acceptance of assistance, the client's rights to spousal support on his behalf are assigned to the Department by operation of law. Therefore, when the client is determined eligible for assistance and is receiving or expects to receive court-ordered support from a spouse or former spouse, he is entitled to the full assistance allowance.

(ii) (Reserved).

(iii) (Reserved).

(iv) The Bureau of Claims Settlement will have the responsibility for enforcement of court orders when the Department is the payee.

(2) *Payment of an existing court order to the Department.* The payment of an existing court order to the Department will be in accordance with the following:

(i) In case situations where there is an existing court order payable to the Department under the automatic assignment provision, the client must agree to pay to the Claim Settlement Support Agency any support or alimony payments received from the absent spouse or former spouse after an assignment has been made to the Department and the client is receiving a full allowance. Payments will be turned over to the Support Collection Agency only because the client will be receiving a full assistance check.

(ii) The Application for Support Services form will be used to effect payment or support under an existing court order to the Department. Upon authorization of assistance, the completed form will be forwarded to the Support Liaison Agent assigned to the CAO for transmittal to the DRS.

(3) (Reserved).

(e) *Spouse not under a court order.* In GA cases, for the spouse not under a court order, the following method will be used to determine financial ability to support:

(1) The contribution expected from a spouse not excluded by §187.23(b) will be determined as follows:

(i) The dependents living with the spouse will be determined. Minor children under 18 years of age will always be included. Other persons will be included if:

(A) They are without income of their own.

(B) The spouse requests their income be added to his income.

(ii) Total net income of the spouse including that of his dependents whose income, by his request, must be taken into account, will be determined. Net income from self-employment or business is profit before tax deductions. Net income from other employment is gross less \$20 per month for work expenses, as determined by subsection (e) and §183.22 (relating to profit from self-employment).

(iii) The amount the spouse is paying for the support of his minor child or children outside his home will be deducted from the total arrived at in subparagraph (ii).

(iv) The appropriate figure from the following income scale will be selected and subtracted from the total net income:

| No. of Persons Dependent Upon | 1 | 2 | 3 | 4 | 5 | 6 | Each |
|-------------------------------|-------|-------|-------|-------|-------|-------|------------|
| LRR's Income | | | | | | | Additional |
| | | | | | | | Person |
| Net | \$173 | \$260 | \$317 | \$373 | \$423 | \$459 | Add \$54 |
| Monthly | | | | | | | |
| Income | | | | | | | |

(v) 1/2 will be applied to the remainder.

(vi) The expected contribution will be the resulting figure or the total allowance for the client, whichever is the lesser.

(2) The total allowance for the client will be the difference between the family size allowance with the client in the assistance unit, excluding special needs allowances, and what the allowance would be if the client were not included in the assistance unit.

(f) *Waiver of an expected contribution.* An expected contribution will be waived as follows:

(1) When a spouse has been determined able to contribute according to subsection (e)(1), the expected contribution may be waived by the Executive Director or his delegate when it appears unsound, unreasonable, or impracticable to expect the spouse to make the determined contribution.

(2) In evaluating whether it is unsound, unreasonable or impracticable to expect the spouse to make the determined contribution, the Executive Director or his delegate will take into consideration circumstances such as but not limited to the following:

(i) The spouse has a medically diagnosed physical or psychological condition that warrants waiver.

(ii) The spouse is already providing support by order of the court to another person that is in an amount as to cause hardship for the spouse if also required to support the client.

(iii) The spouse has legitimate financial obligations, such as high medical bills or heavy loss because of major disaster, that would prohibit him from meeting the expected contribution.

(iv) The spouse is mentally or emotionally unstable to such a degree that further efforts to secure the expected contribution would expose the client to danger or injury.

(3) A waiver will be made for a special period related to the circumstances of the spouse. The period will usually be no longer than 6 months and never more than 1 year without reconsideration.

(g) *GA Spouse or GA Parent Found able to contribute under §183.91 and 183.92.* The following apply:

(1) When it has been determined under subsections (e) and (f) that a spouse or parent is financially able to provide support, the client is expected to either contact the spouse or parent directly to arrange for the amount of the expected contribution or to give consent for the CAO to contact the spouse or parent. If the expected contribution from the spouse or parent is secured, it shall become available to the client. Court action is required in accordance with the procedures in subsection (h) in the following cases:

(i) The total amount of the expected contribution is not secured.

(ii) The client is unwilling to contact the spouse or parent directly and objects to the Department contacting the spouse or parent.

(2) Assistance shall be continued until the court makes a decision. An amount that the spouse or parent is actually contributing is considered income available to the client.

(h) *Court action.* Court action procedures will conform with the following:

(1) *General.*

(i) Court action for support by either Claim Settlement or client will be required whenever one of the following circumstances exists:

(A) Information about the financial circumstances of the spouse cannot be obtained as set forth in §187.23(b)(2).

(B) A contribution is expected from the spouse but the spouse does not provide the amount expected, as set forth in subsection (g).

(C) (Reserved).

(D) (Reserved).

(ii) The client will be expected to take court action within 30 days from the date of the decision that the spouse is expected to contribute. If at the end of the 30 days, the client has not initiated court action, the County Assistance Office will send a written notice to the client advising him that the Department will initiate the legal action to obtain support. This notice will advise the client that the legal proceedings will begin ten calendar days from the date of the notice unless the client either:

(A) Initiates the action himself within the 10-day period.

(B) Requests assistance be discontinued.

(iii) If, within the specified 10 calendar-day period, the client does not indicate he will take court action or request closure, the County Assistance Office will prepare and submit a Form PA 173-B, Referral for Support Action, according to paragraph (2).

(iv) Whenever court action for support is indicated and the spouse lives in another state, reference should be made to for support duties imposed by the laws of the other state. If the information shows that support duties are not imposed on the spouse in that state, court action will not be required.

(2) *Referral to claim settlement.* For GA spousal support cases, the Referral for Support Action will be used to initiate Departmental court action for support. The form will be prepared in duplicate. The original of the completed form will be sent to the Claim Settlement Office. The copy will be retained in the case record. The form will be submitted as soon as the information has been received and the decision made as to the need for support action. A Referral for Support Action must always be made in the following situations:

- (i) Court action is required as specified in subsection (f).
- (ii) A client wants an existing court order paid to the Department, as set forth in subsection (d)(2).

(iii) Assistance is discontinued for a person for whom a court order is being paid to the Department, as set forth in this subsection.

(iv) A client requests release of a court order being paid to the Department, as set forth in subsection (d)(2).

(v) Client or county has received notice of a petition by the spouse or a scheduled hearing to reduce the amount of an existing court order or to adjust or cancel arrearages due under the order.

(3) *Responsibilities of claim settlement.* The responsibilities of the Bureau of Claim Settlement regarding support will be as follows:

(i) To represent the Department in all court actions on support.

(ii) To promptly initiate the court action indicated on the referral when such action in its judgment is warranted and advisable, taking into consideration the laws which apply and the possibility of collecting support from the named spouse in an amount sufficient to justify the cost of the proceedings.

(iii) To receive and credit court-ordered support payments when the Department is the payee or assignee.

(iv) To take prompt legal steps for the enforcement of a court order in which the Department is the payee or assignee.

(v) To promptly notify the County Assistance Office of the decision of the court on each referral.

(vi) To keep the records and reports of support received as are prescribed by the Department, the Federal agencies, and the courts.

(vii) To advise the County Assistance Office on questions of law and legal procedure regarding the enforcement of support and support reimbursement.

(4) *Interchange of information.* Interchange of information between the County Assistance Office and the Claim Settlement Office will be as follows:

- (i) An essential component of support action referrals is the rapid and complete interchange of information between the County Assistance Office and the Claim Settlement Office.
- (ii) The Claim Settlement Office will report to the County Assistance Office by memorandum the results of the decision of a court. This will include date referred to court, date of hearing, decision, amount of order, effective date of order and reason if petition is not granted plus any other information pertinent to the action.
- (iii) The County Assistance Office will send a dummy copy of the Authorization for Assistance to the Claim Settlement Office whenever a case is opened, discontinued or address changed, indicated by an entry on the face sheet.
- (iv) When the Claim Settlement Office decides a court action is not warranted or advisable as set forth in paragraph (3), a memorandum giving the reasons will be sent to the County Assistance Office with a copy to the Director, Bureau of Policy.

(i) *Redetermination of ability to support (spouse for spouse).*

Redetermination of ability to support will be in accordance with the following:

(1) The financial circumstances of the spouse will be redetermined periodically, except in those situations where the following has been determined:

(i) The whereabouts of the spouse is unknown.

(ii) The earning capacity of the spouse is so limited that there is little or no likelihood of his ever having sufficient income to provide support. Work history, mental or physical handicaps, lack of skills, age related to capacity and skill, or addiction to alcohol or drugs are examples of the factors that might be taken into account in making this decision.

(iii) The spouse is a housewife without income whose homemaking responsibilities make employment unlikely.

(iv) The spouse is mentally or emotionally disturbed to the extent that his reactions would threaten or be injurious to the person for whom he is legally responsible.

(2) In the instances described in paragraph (1)(i)–(iii), further determinations of the financial ability of the spouse or further efforts to locate a missing spouse will be made only if new information about the circumstances of the spouse or whereabouts comes to the attention of the County Office.

(j) *Allotments.* Allotments will conform with the following:

(1) *Service Departments administering allotments.*

Army: Finance Center

United States Army

Indianapolis, Indiana 46429

Air Force: Air Force Accounting and Finance Center

3800 York Street

Denver, Colorado 80295

Coast Guard: Commandant

United States Coast Guard Headquarters

Attn: Dependents Allowance Section

Washington, D.C. 20226

Navy: Navy Family Allowance Activity

New Federal Office Building

Cleveland, Ohio 44199

Marine Corps: Marine Corps Finance Center

Allotment Division

Kansas City, Missouri 64197

(2) *E and D allotments.* Enlisted personnel in pay grades E-4 with more than 4 years service and higher, Warrant Officers and Officers, may provide for their dependents either by direct contribution, or by an allotment from their pay. In the case of Army or Air Force personnel, this will be an E Allotment and in the Navy or Marine Corps it will be a D Allotment. These allotments will be optional with the service person and may be discontinued whenever he wishes. The amounts will depend on the arrangements made by the service person.

(3) *Information on allowances and allotments other than Class Q.* If a client has been unable to obtain satisfactory adjustment of a problem through correspondence with the proper service department, the home service worker in the local Red Cross chapter may be able to assist the client by getting in touch, through proper channels, with the Red Cross Field Director at the duty station of the serviceman. American Red Cross Field Directors will be located in most military installations. Requests of this nature should be made by the client, not by the County Office.]

§187.25. Notification to the applicant or recipient.

(a) Cash assistance sought or received for an unemancipated minor child. Before requiring cooperation under §187.23(b) (relating to requirements), the CAO will provide oral and written notice of the cooperation requirements to the applicant or recipient. The ORAL AND written notice shall WILL advise the applicant or recipient of the following:

(1) The potential benefits that the unemancipated minor child may derive from the cooperation of the applicant or recipient in establishing paternity and obtaining support.

(2) Cooperation is a condition of eligibility.

(3) Failure to cooperate without good cause will result in the reduction of the cash assistance allowance by 25%.

(4) The right to claim good cause, good cause circumstances, proving the good cause claim, and the good cause determination under §187.27 (relating to waiver of cooperation for good cause).

(5) The CAO will waive the cooperation requirements when the CAO, the court of common pleas or the DRS determine that good cause exists.

(6) A finding of noncooperation of an applicant or recipient does not affect the LRR's duty to pay support.

(b) Cash assistance sought or received for a spouse. Before requiring cooperation under §187.23(c), the CAO will provide oral and written notice to the applicant/recipient APPLICANT OR RECIPIENT of the cooperation requirements and the right to claim good cause. The ORAL AND written notice shall WILL advise the applicant/recipient APPLICANT OR RECIPIENT of all the information set forth SPECIFIED under IN subsection (a).

§187.26. Noncooperation.

(a) Determination of noncooperation by the CAO, court of common pleas or DRS. The CAO, court or DRS may make the determination of whether an applicant/recipient APPLICANT OR RECIPIENT refused to cooperate without good cause. The court of common pleas of each county shall WILL have the option of hearing appeals from any determination of its DRS that an applicant/recipient

APPLICANT OR RECIPIENT has not cooperated in accordance with §187.23 (relating to requirements). If the court declines to exercise the option to hold hearings on the appeals, the procedures in subsection (b) apply. If the CAO determines noncooperation without good cause, the procedures in subsection (c) apply. Subsection (c)(1) applies to applicants. Subsection (c)(2) applies to recipients. The procedures in subsection (c)(1) or (2) also apply when the court declines to hold the noncooperation hearing. If the court, after notice and an opportunity to be heard, determines that the applicant/recipient APPLICANT OR RECIPIENT refused to cooperate without good cause, the Department will implement the court's order, as set forth SPECIFIED in subsection (d).

(b) If the court or the DRS determines that the applicant/recipient APPLICANT OR RECIPIENT has failed to cooperate, without good cause, with §187.23, the court or the DRS will provide notice of any noncooperation determination to the CAO along with notice of its decision to opt not to hold a hearing on noncooperation. Appropriate court personnel shall be made available to provide testimonial evidence by telephone testimony at the time and location set by the Department for the Departmental appeal hearing. Upon receipt of the notice from the court or the DRS, the CAO shall proceed in accordance with subsection (c)(1) or (2) depending upon whether the individual is an applicant for or recipient of assistance.

(c) If the CAO determines that the applicant/recipient APPLICANT OR RECIPIENT has failed to cooperate, without good cause, with §187.23, or upon receipt of a notice of a noncooperation determination by the court or DRS under subsection (b), the CAO will:

(1) In the case of an applicant:

(i) Provide notice to the applicant of the noncooperation determination, the basis for the noncooperation determination and the reduction of the cash assistance allowance by 25% effective upon authorization of assistance.

(ii) Provide notice to the applicant of the right to appeal to the Department's office BUREAU of hearings HEARINGS and appeals APPEALS under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(iii) Authorize the cash assistance allowance reduced by 25% effective upon authorization of assistance.

(iv) Authorize the full cash assistance allowance if so ordered as a result of a decision rendered by the Bureau of Hearings and Appeals, as a result of a good cause claim initiated by the applicant, or as a result of the applicant cooperating with the support requirements.

(2) In the case of a recipient:

(i) Provide notice to the recipient of the noncooperation determination, the basis for the noncooperation determination, and the reduction of the cash assistance allowance by 25% 10 days after the date of the notice.

(ii) Provide notice to the ~~applicant~~ RECIPIENT of the right to appeal to the Department's Bureau of Hearings and Appeals under Chapter 275.

(iii) Authorize the reduction of the cash assistance allowance by 25% effective 10 days after the date of the notice, unless the recipient has invoked his right to a hearing and has filed an appeal within the 10-day period. If the recipient has invoked his right to a fair hearing WITHIN THE 10-DAY PERIOD, cash assistance will not be reduced pending a decision in the hearing.

(iv) Initiate recovery of the assistance granted pending the fair hearing if the Department action is sustained.

(d) Determination of noncooperation by the court. A hearing or appeal with respect to the recommendation order of noncooperation directed by the court or DRS will be conducted by the court in accordance with the Pennsylvania Rules of Civil Procedure.

(1) Upon receipt of a court order issued by a court of common pleas, the CAO will implement the order within 10 days of receipt. The CAO will:

(i) Provide notice to the applicant or recipient of the court order and the cash assistance allowance reduction by 25%.

(ii) Provide notice to the applicant or recipient of the right to appeal to the Department's Bureau of Hearings and Appeals under Chapter 275 and that the right of appeal to the Department's Bureau of Hearings and Appeals does not include appeal of a court order in which noncooperation has been determined by the court. The right to appeal in this instance to the Department's Bureau of Hearings and Appeals under Chapter 275 is restricted to the calculation of the assistance allowance.

(iii) For an applicant, authorize the cash assistance allowance reduced by 25% effective upon authorization of assistance. For a recipient, the CAO will reduce the cash assistance allowance by 25% effective 10 days after the date of the notice, unless the recipient has invoked his right to a hearing and has filed an appeal within the 10-day period. If the recipient has invoked his right to a fair hearing WITHIN THE 10-DAY PERIOD, the cash assistance allowance will not be reduced pending a decision in the hearing.

(2) If the court order directs the Department to rescind the sanction for noncooperation, the Department will implement the order immediately upon receipt.

§187.27. Waiver of cooperation for good cause.

(a) Good cause circumstances. Cooperation requirements may be waived for good cause. Good cause circumstances include the following:

(1) The child was conceived as a result of incest or rape.

(2) Legal proceedings for the adoption of the child are pending before a court.

(3) The applicant or recipient of cash assistance is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption and the discussions have not progressed for more than 3 months.

(4) Action to establish paternity or obtain child or spousal support would make it more difficult for the individual or family member to escape domestic violence, AS DEFINED IN §187.22 (RELATING TO DEFINITIONS), or unfairly penalize the individual who has been victimized by the violence, or who is at risk of further violence. Domestic violence is defined as one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker/relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(b) Proving the good cause claim. The applicant or recipient of cash assistance shall provide relevant corroborative evidence VERIFICATION.

(1) A good cause claim may be corroborated VERIFIED with the following types of evidence:

(i) A birth certificate or medical or law enforcement records which indicate that the child was conceived as the result of incest or rape.

(ii) Court documents or other records which indicate that legal proceedings for adoption are pending.

(iii) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to relinquish the child for adoption.

(iv) Medical records which indicate emotional health history and present emotional health status of the applicant or recipient or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the

applicant or recipient or the child for whom support would be sought. Supportive evidence submitted from a mental health professional will be defined as statements written by persons INDIVIDUALS who have obtained licensure or certification, if applicable, or have received a degree in defined areas of mental health including psychiatry, social work, psychology, nursing, occupational therapy or recreational therapy.

(v) Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the putative father, noncustodial parent or absent spouse might inflict harm on the individual or family member as specified under subsection (a)(4) VERIFY DOMESTIC VIOLENCE, AS DEFINED IN §187.22.

(vi) Statements from individuals other than the applicant or recipient with knowledge of the good cause circumstances, including a domestic violence service provider, a medical, psychological or social service provider, a law enforcement professional, a legal representative, an acquaintance, friend, relative or neighbor of the claimant or other person INDIVIDUAL. The CAO may not contact the putative father or noncustodial parent to verify good cause in a domestic violence situation.

(vii) "Verification of Good Cause Based on Domestic Violence." ~~The person with domestic violence training~~ CAO and applicant or recipient will complete this form for all good cause claims based on domestic violence in accordance with one of the following circumstances:

(A) To accompany acceptable verification as specified in subparagraph (iv), (v) or (vi) that an applicant or recipient has provided.

(B) To authorize by GRANT GOOD CAUSE UPON written consent of the applicant or recipient that a third party may provide verification/corroboration BASED ON VERIFICATION of the good cause claim PROVIDED BY A THIRD PARTY ON THE FORM.

(C) To grant good cause for up to 6 months when an applicant or recipient affirms he SHE is AT RISK OF DOMESTIC VIOLENCE AND unable to safely obtain OTHER evidence to verify the claim of domestic violence within the established time frames for providing verification.

(2) When the applicant or recipient of cash assistance initiates a claim of good cause, the CAO, court or the DRS may provide assistance with obtaining corroborative evidence VERIFICATION. If requested by the applicant or recipient, the

CAO, court or DRS will provide assistance in securing the needed evidence by advising how to obtain specific documents that may be available and by undertaking to obtain specific documents the applicant or recipient is not able to obtain. THE CAO MAY NOT CONTACT THE PUTATIVE FATHER OR NONCUSTODIAL PARENT TO VERIFY GOOD CAUSE BASED ON A CLAIM OF DOMESTIC VIOLENCE.

(3) An applicant or recipient shall provide verification of the good cause claim, AS SPECIFIED UNDER SUBPARAGRAPHS (1)(iv) – (vii) AND CLAUSES (1)(vii)(A) AND (B), within 30 days from the date the claim is made, except when the applicant or recipient cannot otherwise provide verification of the good cause claim as specified in paragraph CLAUSE (1)(vii)(C).

(i) In the case of an applicant, assistance will be authorized no later than 30 days following application when the applicant is claiming good cause and verification is not readily available or pending from a third party.

(ii) In the case of a recipient, the CAO will continue assistance if verification is not provided within 30 days and the delay is due to a third party.

(c) Good cause determination. The CAO, court or the DRS will make a determination within 45 days from the day the claim was initiated by the applicant or recipient of cash assistance. The CAO, court, or the DRS may approve additional days for the determination to be completed.

(1) If the CAO makes a determination on a good cause claim, the CAO will notify the applicant or recipient of cash assistance in writing of the final determination regarding the claim of good cause and the basis therefor and of the right to appeal under Chapter 275. If the good cause claim is denied, neither the Department nor the Bureau of Child Support Enforcement will attempt to establish paternity or obtain support for at least 30 days after the client INDIVIDUAL has been informed orally and in writing of the denial of the good cause claim.

(2) If the court of common pleas or DRS makes a determination on a good cause claim, the DRS will notify the applicant or recipient of cash assistance and the CAO of the final determination and the basis therefor and of the right to appeal under Chapter 275.

(3) When the CAO, court of common pleas or the DRS approve a waiver of the cooperation requirement based on a claim of good cause, the CAO, court of common pleas or the DRS will establish the expiration of the waiver and the DRS will not attempt to establish paternity or obtain support.

(4) When good cause is determined to exist, the CAO will review the circumstances upon which the good cause determination is based, at least every 6 months. The review may be earlier if the circumstances warranting the good cause waiver change or the waiver was granted for a lesser period.

(i) If the good cause claim WAIVER was granted based on corroborative evidence VERIFICATION, no additional corroborative evidence VERIFICATION is required if circumstances have not changed since approval of the initial waiver. The recipient shall establish that continuation of the good cause waiver is necessary by providing a verification of good cause based on domestic violence form completed by a person with domestic violence training.

(ii) If the good cause claim WAIVER was granted based on the recipient's affirmation UNDER SUBPARAGRAPH (b)(1)(vii)(C), and she is unable to provide verification as specified in subsection SUBPARAGRAPHS (b)(1)(iv)–(vi) AND CLAUSES (b)(1)(vii)(A) AND (B), the CAO will make a determination of good cause based on a current assessment of the recipient's circumstances. This assessment will be completed by a person AN INDIVIDUAL with domestic violence training and substantiated by completion of the verification of good cause based on the domestic violence form under subsection SUBPARAGRAPH (b)(1)(vii).

* * * * *

CHAPTER 281

TIME-OUT BENEFITS

§281.1. POLICY.

TO THE EXTENT STATE FUNDING IS AVAILABLE, AND CONSISTENT WITH STATE AND FEDERAL LAW, FAMILIES OTHERWISE ELIGIBLE FOR TANF BENEFITS UNDER CHAPTER 141 (RELATING TO GENERAL ELIGIBILITY PROVISIONS) ARE ELIGIBLE TO RECEIVE TIME-OUT BENEFITS. THE RECEIPT OF THESE BENEFITS DOES NOT COUNT TOWARDS THE 60-MONTH TANF TIME LIMIT SET FORTH IN §141.41(d) (RELATING TO POLICY).

§281.2. DEFINITIONS.

THE FOLLOWING WORDS AND TERMS, WHEN USED IN THIS CHAPTER, SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE.

KINSHIP CAREGIVER – A NONPARENTAL SPECIFIED RELATIVE, AS DEFINED IN §151.42 (RELATING TO DEFINITIONS).

MPP- MAXIMIZING PARTICIPATION PROJECT – A PROGRAM TO ASSIST INDIVIDUALS TO REMEDY MEDICAL CONDITIONS, FUNCTIONAL LIMITATIONS AND GOOD CAUSE SITUATIONS THAT PRECLUDE THE INDIVIDUAL FROM COMPLYING WITH RESET REQUIREMENTS.

RESET – ROAD TO ECONOMIC SELF-SUFFICIENCY THROUGH EMPLOYMENT AND TRAINING PROGRAM, AS DEFINED IN §165.2 (RELATING TO DEFINITIONS).

TIME-OUT – CASH ASSISTANCE PROVIDED TO A FAMILY UNDER THIS CHAPTER.

VICTIM OF DOMESTIC VIOLENCE – AN INDIVIDUAL WHO HAS BEEN SUBJECTED TO DOMESTIC VIOLENCE, AS DEFINED IN §187.22 (RELATING TO DEFINITIONS).

14-472

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§281.3. ELIGIBILITY REQUIREMENTS.

(a) A FAMILY IS ELIGIBLE TO RECEIVE TIME-OUT BENEFITS IF THE HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD IS ONE OF THE FOLLOWING:

(1) A WORKING INDIVIDUAL. AN INDIVIDUAL WHO IS PARTICIPATING IN WORK AND WORK-RELATED ACTIVITIES FOR AT LEAST THE NUMBER OF HOURS SPECIFIED IN (i) - (iv) BELOW, OR WHO IS MEETING THE FEDERAL DEFINITION OF "ENGAGED IN WORK" AS SPECIFIED IN 42 U.S.C.A. §607(c), WHICHEVER PROVIDES FOR THE GREATER NUMBER OF HOURS OF WORK.

(i) WORKING IN PAID EMPLOYMENT 30 HOURS PER WEEK,

(ii) WORKING IN SELF-EMPLOYMENT 30 HOURS PER WEEK,

(iii) WORKING IN PAID EMPLOYMENT AT LEAST 20 HOURS PER WEEK AND ENGAGING IN ADDITIONAL HOURS OF APPROVED WORK-RELATED ACTIVITY SO THAT THE TOTAL HOURS OF WORK PLUS APPROVED WORK-RELATED ACTIVITY EQUALS OR EXCEEDS 30, OR

(iv) FOR A TWO-PARENT FAMILY, WORKING IN PAID EMPLOYMENT A COMBINED TOTAL OF 55 HOURS PER WEEK.

(2) AN EARLY ENGAGER. AN INDIVIDUAL WHO:

(i) COMPLETED THE JOB SEARCH REQUIRED UNDER §165.31(b) (RELATING TO RESET PARTICIPATION REQUIREMENTS), AND

(ii) BEGAN AN APPROVED EMPLOYMENT AND TRAINING ACTIVITY FOR AT LEAST 30 HOURS PER WEEK DURING THE FIRST 12 MONTHS OF RECEIVING CASH ASSISTANCE, AND CONTINUES TO PARTICIPATE IN THE ACTIVITY FOR AT LEAST 30 HOURS PER WEEK, OR

(iii) ENROLLED IN A POST-SECONDARY EDUCATIONAL ACTIVITY DEFINED AS FULL TIME BY THE INSTITUTION DURING THE FIRST 12 MONTHS OF RECEIVING CASH ASSISTANCE, AND IS MAINTAINING SATISFACTORY PROGRESS, AS DEFINED BY THE INSTITUTION.

(3) AN EXEMPT VOLUNTEER. AN INDIVIDUAL WHO IS EXEMPT FROM RESET PARTICIPATION REQUIREMENTS DUE TO A VERIFIED PHYSICAL OR MENTAL DISABILITY UNDER §165.21(c)(1) (RELATING TO EXEMPTIONS FROM RESET PARTICIPATION REQUIREMENTS), AND VOLUNTARILY PARTICIPATES IN MPP, AS DEFINED IN §281.2 (RELATING TO DEFINITIONS). FOR CONTINUED ELIGIBILITY FOR TIME-OUT, AN EXEMPT VOLUNTEER SHALL COMPLY WITH MPP.

(4) A KINSHIP CAREGIVER. A KINSHIP CAREGIVER, AS DEFINED IN §281.2, WHO:

(i) HAS RECEIVED AT LEAST 24 MONTHS OF CASH ASSISTANCE FOR THE CARETAKER AND A RELATED MINOR DEPENDENT CHILD OR HAS CARE AND CONTROL OF A RELATED MINOR DEPENDENT CHILD AS A RESULT OF A COURT-ORDERED PLACEMENT BY COUNTY CHILDREN AND YOUTH SOCIAL SERVICES, AS DEFINED IN §3130.5 (RELATING TO DEFINITIONS),

(ii) IS NOT RECEIVING TANF FOR THE KINSHIP CAREGIVER'S OWN CHILDREN, AND

(iii) IS MEETING RESET PARTICIPATION REQUIREMENTS, AS SPECIFIED IN §165.31, UNLESS THE INDIVIDUAL IS EXEMPT OR HAS GOOD CAUSE FOR NOT MEETING THOSE REQUIREMENTS.

(b) A FAMILY IS ELIGIBLE TO RECEIVE TIME-OUT IF A FAMILY MEMBER IS A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN §281.2.

§ 281.4. LIMITATIONS.

(a) *TWELVE-MONTH TIME LIMIT.* THE FAMILY'S TIME-OUT UNDER PARAGRAPHS (1) – (3) OF §281.3(a) (RELATING TO ELIGIBILITY REQUIREMENTS) IS LIMITED TO 12 MONTHS IN THE LIFETIME OF THE HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD.

(b) *COMBINED PERIODS.* A FAMILY MAY RECEIVE TIME-OUT UNDER MORE THAN ONE PARAGRAPH OF §281.3(a)(1) – (3). THE MONTHS NEED NOT BE SEQUENTIAL. HOWEVER, THE COMBINED PERIODS OF §281.3(a)(1) – (3) MAY NOT EXCEED 12 MONTHS IN THE LIFETIME OF THE HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD.

(c) *VICTIMS OF DOMESTIC VIOLENCE. TIME-OUT RECEIVED UNDER §281.3(b) IS LIMITED TO 12 MONTHS IN THE LIFETIME OF THE HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD. THE FAMILY MAY RECEIVE AN ADDITIONAL 12 MONTHS OF TIME-OUT UNDER §281.3(a)(1) – (3) IF THE HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD MEETS THE REQUIREMENTS OF §281.3(a)(1), (2) OR (3).*

(d) *SPECIAL EXEMPTION FROM TIME LIMITS FOR KINSHIP CAREGIVERS. A KINSHIP CAREGIVER MAY CONTINUE TO RECEIVE TIME-OUT AS LONG AS THE ELIGIBILITY REQUIREMENTS OF §281.3(a)(4) ARE MET.*

(e) *SUNSET DATE. THIS CHAPTER WILL SUNSET ON JULY 1, 2004.*

§ 281.5. INELIGIBILITY FOR TIME-OUT.

(a) *APPEAL RIGHTS. AN INDIVIDUAL MAY APPEAL THE DENIAL OR TERMINATION OF TIME-OUT BENEFITS UNDER CHAPTER 275 (RELATING TO APPEAL AND FAIR HEARING AND ADMINISTRATIVE DISQUALIFICATION HEARINGS).*

(b) *ENDING TIME-OUT.* IF THE INDIVIDUAL FAILS, WITHOUT GOOD CAUSE, TO COMPLY WITH REQUIREMENTS FOR TIME-OUT, OR NO LONGER QUALIFIES FOR TIME-OUT UNDER §281.4 (RELATING TO LIMITATIONS), TIME-OUT BENEFITS FOR THE FAMILY WILL END. IN THAT EVENT, AND TO THE EXTENT THE FAMILY OTHERWISE QUALIFIES FOR TANF, TANF ASSISTANCE WILL RESUME.

* * * * *

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

**Independent Regulatory
Review Commission
14th Floor, Harristown II**

I.D. NUMBER: 14-472

SUBJECT: Safeguarding Information; Definitions; Application Process; Redetermining eligibility; Special MA Eligibility Provisions; General Eligibility Provisions; Age; Specified Relatives; Deprivation of Support or Care; Employment and Training Program; Resources; Resource Provisions for Categorically Needy NMP-MA and MNO-MA; Income; Living with the Client; Time-Out Benefits

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

RECEIVED
 INDEPENDENT REGULATORY REVIEW COMMISSION
 JUL 8 2002 11:04 AM
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FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|------|-------------|---|
| 7/8 | V. Borawski | HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES |
| 7/8 | A. Kocler | |
| 7/8 | C. Magee | SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE |
| 7/8 | C. Heibel | |
| 7/8 | E. Pagan | INDEPENDENT REGULATORY REVIEW COMMISSION |
| | | ATTORNEY GENERAL |
| | | LEGISLATIVE REFERENCE BUREAU |