

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Department of Public Welfare/Office of Income Maintenance/ Bureau of Policy/Division of Welfare Reform Initiatives		2012 AUG 12 PM 12:11 REVIEW COMMISSION IRRC Number: 2244
(2) I.D. Number (Governor's Office Use)		
(3) Short Title Extended TANF		
(4) PA Code Cite Chapters 133, 141, 165, 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) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and non-technical language. This regulation amends 55 Pa. Code Chapter 133, Redetermining Eligibility, to establish partial redetermination requirements for Extended TANF. This regulation also amends 55 Pa. Code Chapter 141, General Eligibility Provisions, to: a) identify Temporary Assistance for Needy Families (TANF) cash assistance, including Extended TANF cash assistance, as a Federal program (§141.21); (Continued on separate page designated as 1A of 8)		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The statutory authority for this rulemaking is: §§ 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (Act) (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR § 264.1(c) (relating to what restrictions apply to the length of time Federal TANF assistance may be provided); and §§ 201(2), 401(a), 402, 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (Code) (62 P.S. §§ 201(2), 401(a), 402, 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)), 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).		

(8) Briefly explain the regulation in clear and non-technical language. (Cont'd.)

- b) establish TANF time limits and exceptions thereto (§ 141.41);
- c) establish eligibility requirements and add definitions for the Extended TANF program (§§ 141.51 – 141.56);
- d) provide for special allowances for Extended TANF recipients as described in § 165.41 (§ 141.57);
- e) provide the right to appeal adverse actions under 55 Pa. Code Chapter 275 (§ 141.58);
and
- f) establish eligibility requirements for General Assistance (GA) when a family has received 60 months of TANF assistance (§§ 141.21 and 141.61).

Conforming amendments to §§ 165.2, 165.21, 165.31, 165.41, 165.51, 165.52 and 165.61 have been included in this final-form rulemaking to conform to the TANF final-form rulemaking (#14-472).

The regulation also amends 55 Pa. Code Chapter 183, Income, § 183.13, to identify TANF and Extended TANF as Federal programs.

This rulemaking amends 55 Pa. Code Chapter 187, Support From Relatives Not Living With the Client, by changing the name of the form used to verify domestic violence (§ 187.27(b)(1)(vii)). In addition, § 187.22 and the remaining provisions of § 187.27 have been included to conform to the final-form rulemaking for TANF (#14-472).

Finally, Chapter 281, Time-Out Benefits, has been included to conform to the final-form TANF rulemaking (#14-472).

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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.

No.

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

Without these regulations, a family in which the adult head of household or spouse of head of household reaches the 60-month time limit on receipt of Federally-funded TANF assistance will become ineligible for such assistance. Due to domestic violence or other barriers, or both, some families will not achieve self-sufficiency within the 60-month time limit for receipt of TANF assistance prescribed under Federal law. This rulemaking authorizes the Department to extend Federally-funded TANF assistance to eligible

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

Nonregulation would result in the loss of Federally-funded TANF assistance to families who have exhausted 60 months of TANF assistance. This result would clearly be inconsistent with the legislative goal of helping needy families become self-sufficient. Another consequence of nonregulation would be that fewer families would be eligible for cash assistance. Although some families may have been eligible to receive State-funded General Assistance (GA), eligibility criteria for GA are considerably

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

Families with an adult head of household or spouse of head of household ("individual") who has exhausted 60 months TANF assistance may benefit from the regulation. A family is eligible for Extended TANF if the individual satisfies certain eligibility requirements. Whatever the basis for Extended TANF eligibility, the individual must cooperate in establishing eligibility for Extended TANF. For example, for families with a member who is or has been subjected to domestic violence (or is at risk of further domestic violence), the individual must have a domestic violence services plan which

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

families beyond the 60-month time limit. The Department refers to Federally-funded TANF assistance after 60 months as "Extended TANF." The Department's Extended TANF program promotes financial self-sufficiency, the overarching goal of Pennsylvania's TANF program. Families would qualify for Extended TANF under eligibility requirements that include cooperating in obtaining various assessments, complying with service plans or participating in work and work-related activities intended to lead to full-time, permanent unsubsidized employment. To allow recipients to participate in the specific programs and activities which are included in their plan for self-sufficiency, this rulemaking provides supportive services, including transportation and child care. In addition, this rulemaking specifies that cash assistance applicants and recipients who have received 60 months of TANF assistance must seek Extended TANF before seeking General Assistance (GA). This rulemaking clarifies that both TANF and Extended TANF are Federal programs. Under State law, applicants and recipients of cash assistance, if they are potentially eligible, must pursue eligibility for any Federal program as their primary source of financial assistance.

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

narrower than for TANF. While some families would qualify for child-only GA, earned income deductions and incentives for GA are less generous than for TANF. This makes it financially more difficult to qualify for GA than for TANF. Finally, for child-only GA, the parents are not subject to work requirements. As such, child-only GA offers no incentives for parents to move their families toward self-sufficiency.

(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.)

complies with the requirements of 45 CFR § 260.55(c) (regarding requirements for Federally-recognized good cause domestic violence waivers). For families in which the individual is exempt from RESET (Road to Economic Self-Sufficiency through Employment and Training program)¹ due to disability that precludes employment or work-related activity, or has established good cause for not complying with RESET (or is exempt from RESET due to caring for a child under age 6, with no alternate child care arrangement), the individual is referred to the Maximizing Participation Project (MPP). With the exception of the individual who is exempt from RESET due to disability, the individual is referred to MPP after a specified period of time (generally 90 days) if the situation warranting good cause or exemption remains unresolved. Those referred to MPP must cooperate in obtaining a Work Capacity Assessment (WCA) (except in certain circumstances wherein they received an MPP assessment) and comply with an MPP service plan. The purpose of MPP is to identify and address medical conditions, functional limitations and good cause situations that preclude or limit the individual's ability to work and to increase self-sufficiency.

For families in which the individual has established good cause for not complying with RESET (and who has not yet been referred to MPP or another program) or otherwise meets the criteria for deferred referral to a program, the individual must comply with an AMR. This assures that the individual will continue to take steps to achieve self-sufficiency. Indeed, the individual would not require referral to a program if he becomes self-sufficient in the interim. Finally, for families in which the individual is able to comply with RESET, the individual must comply with various work requirements; for example, unless he has good cause for not doing so, he must participate in at least 30 hours of work and work-related activities. Depending on the individual's employment situation, he must participate in job retention and advancement services or the Department's Work Plus Program (WPP), which includes a vocational assessment. The individual is also required to maintain unsubsidized employment. Those able to work will benefit from participating in work and work-related activities (for example, job and life skills training, job search, literacy training and English-as-a Second-Language classes), which are intended to bolster an individual's employability and progress to self-sufficiency.

Approximately 5,200 families with an adult head of household or spouse of head of household who exhausted or will exhaust 60 months of TANF between March 3, 2002 and implementation of this rulemaking, who continued to receive uninterrupted TANF assistance, will be given the opportunity to qualify for Extended TANF. In addition, upon implementation of this rulemaking, all other families with an adult head of household or spouse of head of household who exhausted 60 months of TANF assistance will be given the opportunity to qualify for Extended TANF. Approximately 9,500 families will include an adult who will exhaust his 60 months of TANF assistance during the current fiscal year.

¹ The work and work-related requirements of RESET and penalties for noncompliance are located in 62 P.S. § 405.1 and 432.3.

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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.)

A family that includes an adult head of household or spouse of head of household who has exhausted 60 months of TANF and who refuses to apply for or cooperate in establishing eligibility for Extended TANF is not eligible for either Extended TANF or GA. The family with an adult head of household or spouse of head of household who fails to comply with applicable requirements (for example, compliance with a service plan) or the Agreement of Mutual Responsibility (AMR) developed to move the family toward self-sufficiency is not eligible for GA, unless the noncompliance is for good cause. The estimated number of families this will adversely affect is 520. This figure is 10% of the approximately 5,200 families with an adult who exhausted or will exhaust 60 months of TANF between March 3, 2002 and implementation of this rulemaking.

(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.)

A family with an adult head of household or spouse of head of household who has exhausted 60 months of TANF will be reviewed for Extended TANF eligibility. However, refusing to cooperate or failing to comply with eligibility requirements will render the family ineligible for both Extended TANF and GA.

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

A notice to amend the Commonwealth's TANF State Plan to establish a program and standards to provide TANF benefits to some families who exhaust 60 months of TANF was published at 31 Pa. B. 1639 (March 24, 2001). Interested persons were invited to submit written comments and suggestions.

A 30-day comment period followed publication of the proposed regulation at 32 Pa. B. 431 (January 26, 2002). Public comments were solicited and commentators included citizens and numerous advocacy organizations such as Community Legal Services, Women's Law Project, Community Justice Project 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.

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(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	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

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

The establishment of a 20 percent hardship exemption for Temporary Assistance for Needy Families (TANF) clients who have reached their 60-month lifetime limit on TANF will result in no additional State fund cost to the Commonwealth. The cost in Federal TANF funds is estimated as follows:

	SFY 2002-03	SFY 2003-04	SFY 2004-05	SFY 2005-06	SFY 2006-07	SFY 2007-08
Federal TANF Funds	\$7,577	\$7,577	\$7,577	\$7,577	\$7,577	\$7,577

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

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

Extended TANF is consistent with DPW's goal of welfare reform, which is to promote self-sufficiency for families.

(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.

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

Alternative regulatory schemes were not considered.

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

No.

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

A majority of states have opted to extend TANF beyond the 60-month Federal time limit, including the contiguous states of Delaware, Maryland, New Jersey, New York, Ohio and West Virginia.

The regulation for Extended TANF will 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. The regulation affects existing regulations insofar as amendments are required for 55 Pa. Code §§ 133.23, 141.21, 141.41, 141.61, 183.13 and 187.27 to support eligibility requirements for Extended TANF.

The following sections were added to 55 Pa. Code to provide eligibility provisions for Extended TANF: §§141.51, Policy; 141.52, Definitions; 141.53, Eligibility Based on Domestic Violence; 141.54, Maximizing Participation Project; 141.55, Mandatory RESET Participants; 141.56, Deferred Referral; 141.57, Special Allowances; and 141.58, Appeal Rights.

Existing or proposed regulations of other State agencies are not affected.

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

No public hearings or informational meetings are scheduled.

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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.

The regulations will not change existing reporting requirements or record keeping requirements. However, the regulations will increase the paperwork requirements associated with the Maximizing Participation Project (MPP), a program designed for persons who are not able to comply with work requirements. The following forms are related to Extended TANF:

(WCA 1) – MPP Case Synopsis for Work Capacity Assessment Form – Provides narrative relating to client demographics and addresses hidden barriers and will include the MPP worker's observations. Used to compile information from the individual's CAO record and Client Information System (CIS) screens and is provided to the WCA contractor as an introduction to the individual's TANF history.

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(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.

Families with a member who is or has been subjected to domestic violence may be eligible to receive Extended TANF for as long as necessary to address the effects of domestic violence.

Individuals with a medical condition, functional limitation or good cause situation that precludes compliance with work requirements will be assessed to determine the individual's ability to work or participate in work-related activities, with or without appropriate treatment. Those individuals will receive a service plan intended to promote self-sufficiency.

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

The regulation is effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

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

TANF regulations are reviewed through the Department of Public Welfare's Quality Control and Corrective Action 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.)

(WCA 2) – Letter of Explanation and Request for Information Form – CAO letter provided to the individual's treating physician(s) explaining WCA and requesting the individual's medical records to be sent to the WCA contractor. This form also provides the treating physician(s) the opportunity to become involved in the decision to authorize further diagnostic testing for the individual.

(WCA 3) – Professional Service Invoice for Photocopy Fees Form – Serves as an invoice for reimbursement for costs incurred with the photocopying of the individual's medical records by the treating physician(s).

(WCA 4) – Work Capacity Assessment Transmittal Form – Two-part form used to record information about the MPP client from the CAO case record and then provided to the WCA contractor as an introduction of the individual's case information. The WCA contractor uses the form to document information and to capture information that will be data entered in the Automated Information Management System (AIMS).

(WCA 5)—Work Capacity Summary Results Form – Completed by the WCA contractor upon completion of the WCA. The contractor submits the WCA summary results to the MPP team along with supporting documentation received from the individual's physician, results of the medical assessment, and any other testing.

(PA 1724) – MPP Enrollment Form – Completed by the MPP Worker or MPP Case Manager for each individual enrolled in MPP.

(PA 1718) – MPP Medical and Social History Form – Completed in a private face-to-face interview between the MPP Worker or MPP Case Manager and the individual. Used to help identify possible barriers and is intended to help the MPP Worker or MPP Case Manager, the MPP Team and the individual in developing an appropriate service plan.

(PA 1725) – TANF Work Activity Summary Form – Used to help the MPP worker or MPP Case Manager identify factors that may have contributed to the individual's lack of progress toward self-sufficiency. The information obtained on the TANF Work Activity Summary Form will be combined with the information obtained from the Medical and Social History Form and other documentation to assist the MPP Worker or MPP Case Manager and appropriate team member(s) in developing a plan that will help the individual move closer to self-sufficiency.

PA/CS 1747 – Domestic Violence Verification Form - This form, revised and renamed the "Domestic Violence Verification Form," is used to verify domestic violence when an individual requests a waiver of program requirements (for example, child support, work and time limits) on that basis.

Medical And Social History

PA 1718 11/01

MEDICAL AND SOCIAL HISTORY

INSTRUCTIONS

DIRECTIONS: This is an interactive form to be completed by the CAO Worker, MPP Worker or MPP Case Manager during a private, face-to-face interview with the exempt and mandatory client. The interview should be conducted in a conversational manner that will help the client feel comfortable in answering the questions contained on the Medical and Social History form. The CAO Worker, MPP Worker or MPP Case Manager should use these questions as starting points for discussion to help determine what types of services and assessments the client might benefit from. The client should be involved in the decision-making process.

Prior to the completion of this form, the CAO Worker, MPP Worker or MPP Case Manager should provide the client with an in-depth explanation of the program and the benefits of participation. Further information regarding the benefits and requirements can be found in the MPP procedures.

The appropriate "Release of Information Form(s)" must also be completed and attached to the Medical and Social History form so information can be shared with or obtained from other agencies or medical professionals.

Questions with a YES or NO response are intended to be markers for possible problems that may require referrals for assessment or services. The other questions are intended to gather information that may be helpful in preparing a service and/or goal plan for the client.

Questions 1 through 5 and 41 through 46 are information-gathering questions that should help develop a plan for the client.

Questions 6 through 10 are intended to identify clients with Limited English Proficiency or other education-related barriers.

Questions 11 through 18 are meant to gather information regarding the client's health and barriers that may have not been disclosed on the medical statements.

Questions 19 through 29 relate to possible substance abuse problems.

If the client answers YES to the BOLDED question in #29, "If yes, do you think it would help to receive treatment services?", it is an indication that the client may need immediate referral for services. Consult with the appropriate Team Member to determine what immediate steps should be taken.

Questions 30 through 37 relate to family and legal issues or possible domestic violence problems.

If the client answers "YES" to the bolded question in #33, "Does that threat exist today?", it is an indication that the client is in a potentially threatening situation. The CAO Worker, MPP Worker or MPP Case Manager should consult with the appropriate Team Member immediately to determine what steps should be taken. The CAO Worker, MPP Worker or MPP Case Manager should take immediate actions to ensure the client's safety.

If the client answered "NO" to #34, "Is it safe for you to go home today?", it is an indication that the client is in a potentially life threatening situation. The CAO Worker, MPP Worker or MPP Case Manager should consult with the appropriate Team Member immediately to determine what steps should be taken. The CAO Worker, MPP Worker or MPP Case Manager should take immediate actions to ensure the client's safety.

Questions 38 through 40 will capture information about the client's work history, hobbies and any volunteer work the client may have done. They will also capture possible reasons the client may not have been able to maintain these activities.

Questions 41 through 46 are information-gathering questions that may assist in helping the client set goals.

Automatic Referral (Bolded Questions)

If the client answers yes to the BOLDED question in #29, "If yes, do you think it would help to receive treatment services?" or YES to the bolded question in #33, "Does that threat exist today?", it is an indication that the client is in a potentially threatening situation. The CAO Worker, MPP Worker or MPP Case Manager should consult with the appropriate Team Member immediately to determine what steps should be taken. The CAO Worker, MPP Worker or MPP Case Manager should take immediate actions to help ensure the client's safety.

Emergency Referrals**

If the client answered NO to #34**, "Is it safe for you to go home today?", it is an indication that the client is in a potentially life threatening situation. The CAO Worker, MPP Worker or MPP Case Manager should consult with the appropriate Team Member immediately to determine what steps should be taken. The CAO Worker, MPP Worker or MPP Case Manager should take immediate actions to help ensure the client's safety.

Summary Questions A through E are intended to help the client identify areas that are of major concern and are preventing the client from obtaining his or her goals. The answers to these questions are to be indicated on the Summary Questions Table on the last page of the Medical and Social History form.

Summary Questions Table — After the answers to Summary Questions A through E have been entered on the Summary Questions Table, the client will be asked to rank all the Summary Question "Yes" answers in order of importance with 1 being the most important and 5 being the least important. This ranking along with the information contained on the remainder of the Medical and Social History form and other available documentation will help the MPP Team develop an appropriate Service Plan for the client.

Signatures — At the completion of the Medical and Social History interview, the CAO Worker, MPP Worker or MPP Case Manager and the client will sign and date the Medical and Social History form.

MEDICAL AND SOCIAL HISTORY

CLIENT NAME		SOCIAL SECURITY NUMBER
DATE OF BIRTH	CO/CASE RECORD #	PHONE NUMBER
NAME OF PRIMARY CARE PHYSICIAN OR DOCTOR YOU SEE MOST OFTEN		DOCTOR'S PHONE NUMBER

Dear Client,

This is an interactive form. The information you provide will be kept completely private and will only be used to help determine what services would best assist you in achieving your goals. We appreciate your responses.

1. Why did you volunteer for this program?

2. What do you expect to get out of this program?

3. What changes or improvements would you like to make in your life?

4. What is currently keeping you from making those changes or improvements?

5. How can we help you make the changes you would like to make to improve your life?

SECTION A — EDUCATION AND LANGUAGE

6. Did you finish high school? YES _____ NO _____
- a) If no, why not? _____

- b) If no, did you ever try going back to school? YES _____ NO _____
- c) Did you attend or complete any training courses or attend or complete college? YES _____ NO _____
- d) If yes, explain and provide dates. _____

- e) Did you ever attend any Adult Basic Education (ABE) or literacy programs? YES _____ NO _____
- f) If yes, what were the results? _____

7. Were you ever in special education classes in school? YES _____ NO _____
- a) Were you ever held back a grade in school? YES _____ NO _____
- b) If yes to either, please explain. _____

8. Is English your primary language? YES _____ NO _____
- If YES, skip to Question 9.*
If NO, continue with Question 8 and skip Questions 9 and 10.
- a) Do you have problems reading in English? YES _____ NO _____
- b) Do you have problems writing in English? YES _____ NO _____
- c) If yes, are you more comfortable reading or writing in a different language? YES _____ NO _____
- d) If yes, what language? _____
- e) Do you sometimes have difficulty reading in your primary language? YES _____ NO _____
- f) Do you sometimes have difficulty writing in your primary language? YES _____ NO _____
- g) Have you ever taken an English as a Second Language Course? YES _____ NO _____
- h) If yes, when and where? _____

- i) Would you be interested in taking another course? YES _____ NO _____

9. If English is your primary language, do you ever have problems reading English or understanding what you are reading? YES _____ NO _____
- a) If yes, would you like help improving your reading skills? YES _____ NO _____
10. Do you ever have problems writing? YES _____ NO _____
- a) If yes, would you like help in improving your basic writing skills? YES _____ NO _____
- b) Have you ever taken ABE Courses? YES _____ NO _____
- c) If yes, when and where? _____

- d) Would you like to take an ABE course? YES _____ NO _____
- SUMMARY QUESTION A — Do you feel that problems with language or education are preventing you from obtaining your goals?** YES _____ NO _____

SECTION B — HEALTH

11. In general, would you say your health is: *(Mark one box)*
- Excellent _____ Very Good _____ Good _____ Fair _____ Poor _____
12. The following questions are about activities you might do during a typical day. Does your health now limit you in these activities? If so, how much? *(Mark one box)*
- a) Moderate activities, such as moving a table, pushing a vacuum cleaner, bowling, or taking a baby for a walk in a stroller.
- Yes, limited a lot _____ Yes, limited a little _____ No, not limited at all _____
- b) Climbing several flights of stairs.
- Yes, limited a lot _____ Yes, limited a little _____ No, not limited at all _____
13. **During the past four weeks**, how much of the time have you had any of the following problems with your work or other regular daily activities as a result of your physical health?
- a) Accomplished less than you would like:
- All of the time _____ Most of the time _____ Some of the time _____
- A little of the time _____ None of the time _____
- b) Were limited in the kind of work or other activities:
- All of the time _____ Most of the time _____ Some of the time _____
- A little of the time _____ None of the time _____

14. **During the past four weeks**, how much of the time have you had any of the following problems with your work or other regular daily activities as a result of any emotional problems (such as feeling depressed or anxious)?

a) Accomplished less than you would like:

All of the time _____ Most of the time _____ Some of the time _____

A little of the time _____ None of the time _____

b) Didn't do work or activities as carefully as usual:

All of the time _____ Most of the time _____ Some of the time _____

A little of the time _____ None of the time _____

15. **During the past four weeks**, how much did pain interfere with your normal work (including both work outside the home and housework)?

Not at all _____ A little bit _____ Moderately _____ Quite a bit _____ Extremely _____

16. These questions are about how you feel and how things have been with you during the **past four weeks**. For each question, please give the one answer that comes closest to the way you have been feeling. How much of the time during the **past four weeks** ...

a) Have you felt calm and peaceful?

All of the time _____ Most of the time _____ Some of the time _____

A little of the time _____ None of the time _____

b) Did you have a lot of energy?

All of the time _____ Most of the time _____ Some of the time _____

A little of the time _____ None of the time _____

c) Have you felt downhearted and depressed?

All of the time _____ Most of the time _____ Some of the time _____

A little of the time _____ None of the time _____

17. **During the past four weeks**, how much of the time has your physical health or emotional problems interfered with your social activities (like visiting friends, relatives, etc.)?

All of the time _____ Most of the time _____ Some of the time _____

A little of the time _____ None of the time _____

18. **During the past three months**, have you received any treatment for physical health or mental health problems? YES _____ NO _____

a) If yes, please explain. If no, please explain why not. _____

SUMMARY QUESTION B — Do you feel that problems with physical health or mental health are one of the major things preventing you from obtaining your goals? YES _____ NO _____

SECTION C — SUBSTANCE ABUSE

19. Do you think the following substances can cause **harm** to a person? *(Please mark Y or N)*

Alcohol _____ Marijuana _____ Cocaine _____ Heroin _____ Others _____

20. How often do you currently drink beer, wine, or liquor?

Every day _____ 3-4 times weekly _____ 1-2 times weekly _____ Twice a month _____

Once a month _____ Never _____ Other _____

21. How much beer, wine, or liquor do you usually drink at one time?

Not applicable _____ One drink only _____ 2-3 drinks _____ 4-5 drinks _____

6 drinks or more _____

22. In the past year, which of the following reasons have you drunk alcohol or used drugs?

To get high _____ To escape problems _____ To relax _____ To socialize _____

To fit in with the crowd _____ To have fun _____

23. Have you ever felt the need to quit or cut down on your drinking or drug use? YES _____ NO _____

a) If yes, have you tried to quit or cut down but were unsuccessful? YES _____ NO _____

24. Has anyone ever expressed concern about your drinking or drug use? YES _____ NO _____

a) Do you feel annoyed when being questioned/criticized about your drinking or drug use? YES _____ NO _____

25. Have you felt badly or guilty about your drinking or drug use? YES _____ NO _____

26. Do you ever drink or take drugs in the morning to get yourself going or feel better from a hangover? YES _____ NO _____

a) If yes, how often does this happen?

Hardly ever _____ Occasionally _____ Often _____

27. Has your drinking or drug use caused family, job, or legal problems? YES _____ NO _____

28. Do you, your children, or anyone in your family have a history of substance abuse and/or mental health problems? YES _____ NO _____

a) If yes, who and when: _____

b) Have you or your children ever received substance abuse or mental health services? YES _____ NO _____

29. Do you think you or your children might have a substance abuse or mental health problem now? YES _____ NO _____

a) If yes, do you think it would help to receive treatment services? YES _____ NO _____

SUMMARY QUESTION C — Do you feel that problems with drug or alcohol use are one of the major things preventing you from obtaining your goals?

YES _____ NO _____

SECTION D — FAMILY AND LEGAL ISSUES

30. Do you have any family responsibilities or problems that are keeping you from making the changes or improvements that would make your life better?

YES _____ NO _____

a) If yes, please describe. _____

31. Have you or anyone in your household ever been involved with the criminal justice system or experienced legal problems?

YES _____ NO _____

a) If yes, please explain. _____

32. Are you involved in any relationships that would prevent you from obtaining your goals?

YES _____ NO _____

a) If yes, please explain. _____

33. Has your spouse or significant other ever threatened to take your children?

YES _____ NO _____

a) **DOES THAT THREAT EXIST TODAY?**

YES _____ NO _____

34. Is it safe for you to go home today?

YES _____ NO _____

a) ****IF NO "OR" YOU ARE NOT SURE, WOULD YOU ACCEPT HELP IN FINDING A SAFE PLACE FOR YOU AND YOUR CHILDREN?**

YES _____ NO _____

35. Do you have family and/or friends who can help support your efforts in meeting your goal?

YES _____ NO _____

a) If yes, please tell us whom. _____

36. Have you or your family ever been involved with a children and youth agency?

YES _____ NO _____

a) If yes, please explain. _____

37. Do you have any problems finding childcare? YES _____ NO _____

a) If yes, please explain. _____

Summary Question D — Do you feel that problems with family or legal issues are one of the things preventing you from obtaining your goals? YES _____ NO _____

SECTION E — WORK HISTORY AND GENERAL INFORMATION

38. Do you have any previous work history? YES _____ NO _____

a) Have you done any volunteer work? YES _____ NO _____

b) If yes to either, please complete:

WHEN	WHERE	WHAT KIND OF WORK
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

c) Why did you leave? _____

d) Were you ever fired? YES _____ NO _____

e) If yes, why? _____

39. How do you spend your spare time?

40. Are you interested in taking a test to identify possible areas of interest or employment possibilities? YES _____ NO _____

(The website www.pheaammentor.org has a free interest inventory that the client can take that will list what types of jobs the client is best suited for based on the client's current interests. The CAO worker can assist the client in completing this interest inventory.)

41. What services have you received from other offices, organizations or agencies within the last two years? (Please list agency and services received.)

a) What helped and what didn't?

b) For those that didn't help, please explain why you think they didn't help.

42. List three or more things that you like about yourself and/or that you do well.

1. _____

2. _____

3. _____

4. _____

5. _____

43. List something(s) about yourself that you would like to change or improve.

44. Where do you want to be in two years?

45. After our discussions here today, what do you think you need to get you where you want to be?

46. Do you have any additional comments/information you would like to share with us?

SUMMARY QUESTION E — Do you feel that problems with work history or other issues are one of the major things preventing you from obtaining your goals?

YES ____ **NO** ____

SUMMARY QUESTIONS TABLE

This table lists some of the answers you gave. You answered "YES" if you thought the topic was one of the major things preventing you from obtaining your goals. Please look at the topics you answered "YES" for and rank them in order, with "1" being the most important and "5" being the least important.

SUMMARY QUESTION	TOPIC	YOU ANSWERED		RANK
		YES	NO	
A	EDUCATION AND LANGUAGE			
B	HEALTH			
C	SUBSTANCE ABUSE			
D	FAMILY AND LEGAL ISSUES			
E	WORK HISTORY AND GENERAL ISSUES			

CAO WORKER, MPP WORKER or MPP CASE MANAGER NAME	DATE COMPLETED	CAO WORKER/MPP WORKER MPP CASE MANAGER PHONE NUMBER
CLIENT SIGNATURE		DATE SIGNED

TANF WORK ACTIVITY SUMMARY

CLIENT'S NAME		CLIENT'S RECORD #	CLIENT'S SSN
TIME ON TANF _____ DAYS	NUMBER OF CHILDREN	AGES OF CHILDREN	
CURRENT RESET STATUS: <input type="checkbox"/> MANDATORY <input type="checkbox"/> EXEMPT REASON: _____			

1. HAS THE CLIENT BEEN EXEMPT FOR 12 CONSECUTIVE MONTHS OR MORE? YES NO
 -IF EXEMPT LONGER THAN 12 MONTHS THEN FURTHER COMPLETION OF SUMMARY IS OPTIONAL.

2. TIME SPENT IN THE INITIAL JOB SEARCH (IJS) _____ MONTHS
3. WAS THE IJS A CONTRACTED ACTIVITY? YES NO
4. DID CLIENT GET A JOB AS A RESULT OF IJS? YES NO
 IF YES, LIST NAME OF EMPLOYER, JOB TITLE AND LENGTH OF EMPLOYMENT.
 EMPLOYER: _____ DUTY/FUNCTION: _____ HOW LONG EMPLOYED? _____
5. HOW MUCH TIME DID THE CLIENT SPEND IN EDUCATION OR TRAINING, e.g. SPOC? _____
 TYPE: _____ FINISHED YES NO JOB AS A RESULT? YES NO
 TYPE: _____ FINISHED YES NO JOB AS A RESULT? YES NO
6. HOW MANY JOBS HAS THE CLIENT HAD IN THE LAST TWO(2) YEARS? _____
7. WHEN WAS THE CLIENT'S LAST EMPLOYMENT? _____ REASON ENDED? _____
 EMPLOYER: _____ DUTY/FUNCTION: _____ HOW LONG EMPLOYED? _____
8. NUMBER OF RESET SANCTIONS IMPOSED? _____ PRE-24 MONTHS _____ POST-24 MONTHS
9. DID THE CLIENT COMPLETE A POST 24 MONTH DIRECTED SEARCH (PROJECT Q)? YES NO
 DID CLIENT GET A JOB AS A RESULT? YES NO
 IF YES, LIST EMPLOYER, JOB TITLE AND LENGTH OF EMPLOYMENT.
 EMPLOYER: _____ JOB TITLE: _____ HOW LONG EMPLOYED? _____
10. HAS THE CLIENT PARTICIPATED IN PAID WORK EXPERIENCE? YES NO
11. HAS THE CLIENT PARTICIPATED IN COMMUNITY SERVICES? YES NO
12. DID THE CLIENT USE ANY TIME OUT? YES NO HOW LONG? _____ DAYS
13. CLIENT'S STATED REASON FOR LACK OF MOVEMENT TOWARDS SELF-SUFFICIENCY: _____

IMCW NAME: (PLEASE PRINT)	DATE:
COUNTY/DISTRICT:	

DOMESTIC VIOLENCE VERIFICATION FORM

NAME: _____	CASE NUMBER: _____
-------------	--------------------

PLEASE READ THESE INSTRUCTIONS CAREFULLY. - ONLY ONE OF THE COLORED BLOCKS (2 or 3) MUST BE COMPLETED TO VERIFY DOMESTIC VIOLENCE. BLOCK 4 MUST BE COMPLETED FOR SELF-AFFIRMATION OF DOMESTIC VIOLENCE. BLOCKS 1 AND 5 ARE COMPLETED FOR ALL GOOD CAUSE BASED ON DOMESTIC VIOLENCE CLAIMANTS.

1. GOOD CAUSE CLAIM

I, _____, request to be excused from the following TANF program or CCIS Child Care program requirement(s) because of domestic violence: support cooperation; work time limit (Time-Out); time limit (Extended TANF); or other TANF or CCIS program requirement (please specify) _____
 I have been asked to provide verification to support my claim. I have cooperated/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 Department 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 compliance with the TANF/CCIS program requirement(s) checked above may place the claimant and/or household or family members at risk of domestic violence and/or make it more difficult for the claimant and/or household or family members to escape domestic violence.

DATE _____	THIRD PARTY SIGNATURE _____
------------	-----------------------------

4. SELF-AFFIRMATION

I affirm that compliance with the TANF/CCIS program requirement(s) checked above would place me and/or my household or family members at risk of further domestic violence; make it more difficult for me or a member of my family or household to escape domestic violence; or unfairly penalize me or a member of my family or household who is or has been victimized by domestic violence. I do not have and am unable to safely obtain evidence to verify the domestic violence.

DATE _____	CLIENT SIGNATURE _____
------------	------------------------

5. GOOD CAUSE DECISION (CAO USE ONLY)

- APPROVED DISAPPROVED

_____ WORKER	_____ SUPERVISOR	_____ DATE
--------------	------------------	------------

LIST OF COMMENTATORS ON PROPOSED REGULATIONS

REGULATIONS TITLE: Redetermining Eligibility, General Eligibility Provisions and Income - #14-474

**PUBLISHED IN PENNSYLVANIA BULLETIN,
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DATE: January 26, 2002

COMMENT DEADLINE: February 25, 2002

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DRAFT 617/02

MPP – Case Synopsis for Work Capacity Assessment (Option 1)

Please complete form as completely as possible – information will expedite WCA process

Client's Name	Co/Record/Line #	Client's SSN
---------------	------------------	--------------

General Case and Household information

1. Client's Age _____ (CQCOMP)
2. Number of children _____ Ages of children _____ (CQCOMP)
3. Is Client caring for a disabled child or adult in the household? Who _____
Relationship _____ (CQCOMP) (CQDISB)

Client is currently on an employment exemption or good cause because: _____ (CQCCOM)
 This exemption/good cause is up for review on _____ (CQPREN)
 This client has been exempt for _____ months
 DAP referral completed? _____ Status of SSI/SSDI application? _____ (CQDISB)

Past ETP participation:
 Initial job search completed? _____ (CQPREN) Highest grade completed or GED? _____ (CQEMPL)
 Was attendance regular? _____
 Training and/or education received since being on TANF _____ dates _____
 (CQETPT) _____ dates _____

Testing for educational ability and/or vocation preference? _____
 Type of test _____ Results _____
 Type of test _____ Results _____

Employment (subsidized/unsubsidized) since being on TANF (CQEMPL/CQCCOM)

Employer	Dates of Employment	Specific job duties	Reason for leaving
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Has client been sanctioned for non-compliance? _____ If yes – please give dates and reason for sanction (CQBVAL)

Has client elected to take Time-Out? _____ If yes – indicate What type, and length of time in each. (CQINDL)
 _____ (CQAEMN/CQTIME)
 Time Out Criteria _____ Dates _____
 Time Out Criteria _____ Dates _____

Client's stated reason for being on TANF (AMR/PA 600)

IMCW observations and comments as to why client remains on TANF (CQCCOM)

PRINT IMCW	Signature	Date
------------	-----------	------

WCA 1

DRAFT 617/02

MPP – Case Synopsis for Work Capacity Assessment (Option 2)

Please complete form as completely as possible – information will expedite WCA process

Client's Name	Co/Record/Line #	Client's SSN
---------------	------------------	--------------

General Case and Household information

1. Client's Age _____ (CQCOMP)
2. Number of children _____ Ages of children _____ (CQCOMP)
3. Is Client caring for a disabled child or adult in the household? Who _____ Relationship _____ (CQCOMP/CQDISB)

Employment and Training information

Client is currently on an employment exemption or good cause because: _____ (CQCCOM)
 This exemption/good cause is up for review on _____ (CQPREN)
 This client has been exempt for _____ months
 DAP referral completed? _____ Status of SSI/SSDI application? _____ (CQDISB)

Testing for educational ability and/or vocation preference? _____

Type of test _____ Results _____
 Type of test _____ Results _____

Has client been sanctioned for non-compliance? _____ If yes – please give dates and reason for sanction (CQBVAL)

Client's stated reason for being on TANF (AMR/PA 600) _____

MCW observations and comments as to why client remains on TANF

(CQCCOM) _____

PRINT IMCW _____ IMCW Signature _____ DATE _____

WCA 1

DRAFT 617/02

Commonwealth of Pennsylvania
Department of Public Welfare

County Assistance Office

WCA -Letter of Explanation and Request for Information

Physician's Name _____

Dear Physician,

Address _____

Phone # _____

The following information is necessary in order to conduct a Work Capacity Assessment required by the Maximizing Participation Project as part of the Extended TANF program administered by the PA Department of Welfare.

As part of the final phase of Welfare Reform, the Work Capacity Assessment is designed to thoroughly evaluate existing medical conditions as they relate to employment potential and/or pursuit of SSI/Disability benefits. The information you send to the Work Capacity Assessment Contractor, (noted on the release of information form) will be reviewed and may be used to select a physician to conduct an Independent Medical Exam and possibly to order further diagnostic testing. It is imperative that we receive these records within 5 days of your receipt of this letter. Thank you for your cooperation.

You may choose to be part of this evaluation process by stating so below.

In addition to this letter, you will be given:

- A consent for release of information – signed by the patient
- Specific release forms for HIV/D&A/Mental Health, as appropriate
- A postage-paid document envelope to mail the patient's medical records
- An invoice for photocopy expenses

Patient Name (please print)

Birth Date

Patient Address

Social Security Number

Patient's phone number

To be completed by physician

- I request to be involved in the referral for diagnostic treatment and evaluation process of my patient.
- I would like to be compensated for photocopy expenses. **Complete the enclosed Professional Service Invoice and submit it with the patient's medical records. We cannot authorize payment for records received after 60 days from the date of this letter. The maximum fee for furnishing these records is \$20.57.**

Name of physician

Address

Signature of Physician

Date

Phone Number ()

WCA 2

DRAFT 617/02

**PA Department of Welfare
Maximizing Participation Project – Work Capacity Assessment**

Professional Service Invoice for Photocopy Fees

Date _____

Name of Physician

Name of Client

Address

Address

Phone Number

Phone Number

Federal ID Number or Provider Social Security Number _____

CODE AND TYPE OF SERVICE:

Medical Evidence from Physician's Records-Disability

\$ _____ Total (Maximum Amount Allowable \$20.57)

Physician's Signature

We certify that the above item (s) or services (s) were actually rendered and that the above price and terminology are in accordance with DPW's Authorization for Services. Payment cannot be made for unauthorized services. Neither the client nor his/her health insurer may be charged any fee for these services. In submitting this invoice for payment, the provider certifies that the fees charged are not in excess of those charged private patients or Federal or other agencies in the Commonwealth for the same or similar types of services.

WCA 3

DRAFT 617/02

COUNTY ASSISTANCE OFFICE USE ONLY

Client's Name	SSN	Birth Date	Date Transmittal sent to WCA provider
Name of County	Record Number	CAO contact name	CAO contact phone #

Treating Physicians:

Physician _____ Address _____ _____	Physician _____ Address _____ _____	Physician _____ Address _____ _____
Phone # _____	_____	_____

Documentation Enclosed

_____ AMR (PA1661)	_____ HIV Release of Information (PA1732)
_____ Case Narrative CQCCOM	_____ Medical and Social History (PA1718)
_____ Consent for Release of Information (PA1723)	_____ Medical Assessment forms (PA635)
_____ Copies from Dr files (DAP record)	_____ Mental Health Release of Info (PA1731)
_____ DAP Referral (PA731)	_____ MPP Enrollment form (PA1724)
_____ D&A Release of Information (PA1733)	_____ MPP-Case Synopsis (PA xxx)
_____ Employment Assessment forms (PA1663/1664)	_____ Report of Physical/Medical Exam (PA586)
_____ Health Sustaining Medications (PA1671)	_____ TANF Work Activity Summary (PA1725)
_____ Other (explain)	

WCA CONTRACTOR USE ONLY

Date transmittal package received from CAO _____

Follow-up call made to _____ on _____ Date/Time _____ Date/Time _____
Physician

Follow-up call made to _____ on _____ Date/Time _____ Date/Time _____
Physician

Follow-up call made to _____ on _____ Date/Time _____ Date/Time _____

Date additional info received from Physician(s) _____ Physician
_____ Physician
_____ Physician

Date referral and accompanying documentation reviewed _____ Reviewer's name _____

Client requires Independent Medical Exam for the following reason(s)

Client scheduled for IME on _____ date _____ at _____ time _____ with _____

Physician _____ Client called _____ Date/Time _____
Address _____ Appointment letter sent _____

Phone # _____ No show for first IME? _____ Client called _____

Client rescheduled for IME on _____ at _____ Date/Time _____ Rescheduled Apt Letter sent _____

Client does not require an IME because he/she meets the following criteria
_____ Caring for a Disabled HH member _____ Documentation substantiates permanent disability
_____ Other (explain) _____ WCA 4

DRAFT 617/02
WCA Summary Results

Date _____

Name _____

Address _____

County/Record # _____

Based on careful analysis of data supplied by:

- The County Assistance Office or MPP Contractor
- The client's treating physician(s)
- An Independent Medical Exam

It is our professional opinion that the above client meets the following criteria:

- Able to work with no limitations
- Not able to work
- Able to work _____ hours with the following accommodations, treatments or services

- Would be considered a good candidate for SSI or SS Disability

Recommendations regarding participation in Employment and Training programs; Mental Health, Mental Retardation, and Drug & Alcohol Services; vocational rehabilitation, and/or any other treatment, activities, or accommodations that would assist this client in the pursuit of self-sufficiency:

Work Capacity completed by _____
Name of Employee completing WCA evaluation

WCA Name and Address _____

MPP ENROLLMENT FORM

DATE:	ETP STATUS CODE AT ENROLLMENT:
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CLIENT NAME:				CASE RECORD NUMBER:
CLIENT ADDRESS (INCLUDE CITY/STATE/ZIP CODE):				
TELEPHONE NUMBER: ()	DATE OF BIRTH:	AGE:	SOCIAL SECURITY NUMBER:	MPP WORKER/CASE MANAGER NAME:

HOUSEHOLD MEMBERS		
NAME	DATE OF BIRTH	RELATIONSHIP

EDUCATION AND TRAINING	
HIGHEST GRADE COMPLETED: ▶ <input type="text"/>	(FOR MORE INFORMATION, SEE THE TANF WORK ACTIVITY SUMMARY. LIST ADDITIONAL INFORMATION IF NEEDED.)

OTHER AGENCY INVOLVEMENT		
IS CLIENT CURRENTLY INVOLVED WITH OTHER SOCIAL SERVICE AGENCIES? <input type="checkbox"/> YES <input type="checkbox"/> NO		
(IF YES, WHAT AGENCIES?):		
REFERRAL INTERVIEW DATE: ▶	MPP WORKER/CASE MANAGER NAME:	
ENROLLMENT INTERVIEW DATE: ▶	MPP WORKER/CASE MANAGER NAME:	
ENROLLMENT DATE: ▶	MPP WORKER/CASE MANAGER NAME:	
SCREENING TOOL COMPLETION DATE: ▶	MPP WORKER/CASE MANAGER NAME:	
(IF NOT COMPLETED AT ENROLLMENT, STATE REASON):		
RELEASE OF INFORMATION FORM(S) COMPLETION DATE(S): ▶	(LIST TYPES OF RELEASE(S) OBTAINED):	
(IF NOT COMPLETED AT ENROLLMENT, STATE REASON):		
DRAFT INITIAL SERVICE PLAN DATE: ▶	INITIAL SERVICE PLAN FINALIZATION DATE: ▶	TERMINATION DATE: ▶
REASON FOR TERMINATION:		

CDL-1

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

(Pursuant to Commonwealth Documents Law)

2002 JUL 29 11:11

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2244

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><small>π Check if applicable Copy not approved. Objections attached.</small></p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF PUBLIC WELFARE (Agency)</p> <p>LEGAL COUNSEL: <u>Jean E. Graybill</u></p> <p>DOCUMENT/FISCAL NOTE NO. <u>14-474</u> (DPW-OIM-08-00-01)</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Deborah Robinson</u></p> <p>TITLE: SECRETARY OF PUBLIC WELFARE (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agency</p> <p>BY: _____</p> <p><u>7/29/02</u> Date of Approval</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency (Strike inapplicable title)</p> <p><small>π Check if applicable. No Attorney General approval or objection within 30 days after submission.</small></p>
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Notice of Final Rulemaking
Department of Public Welfare
Office of Income Maintenance

[55 Pa. Code Chapter 133]
REDETERMINING ELIGIBILITY

[55 Pa. Code Chapter 141]
GENERAL ELIGIBILITY PROVISIONS

[55 Pa. Code Chapter 165]
ROAD TO ECONOMIC SELF-SUFFICIENCY
THROUGH EMPLOYMENT AND TRAINING (RESET) PROGRAM

[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 regulation to read as set forth in Annex A. The statutory authority for this rulemaking is: §§ 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (Act) (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR § 264.1(c) (relating to what restrictions apply to the length of time Federal TANF assistance may be provided); and §§ 201(2), 401(a), 402, 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (Code) (62 P.S. §§ 201(2), 401(a), 402, 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)), 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 32 Pa. B. 431 (January 26, 2002).

PURPOSE

The purpose of this rulemaking is to codify regulations to take advantage of an option under Federal law that permits states to extend Temporary Assistance for Needy Families (TANF) beyond 60 months to a limited number of families on the basis of hardship or domestic violence.

NEED FOR REGULATION

The Department recognizes that some families, due to domestic violence or other barriers, or both, will not achieve self-sufficiency within the 60-month time limit for receipt of TANF assistance prescribed under Federal law. This rulemaking reflects the legislative intent that the Commonwealth's cash assistance programs promote self-sufficiency over dependency. The regulation affords families that have exhausted the 60-month time limit the opportunity to receive cash assistance contingent upon participation in employment or other activities designed to move them toward economic independence. This rulemaking provides supportive services, including transportation and child care, to individuals to allow them to participate in specific programs and activities which are part of their plan for self-sufficiency. This rulemaking is also needed to clarify that Extended TANF is a Federal benefit which cash assistance applicants must seek first, before applying for General Assistance (GA), if they are potentially eligible, in accordance with §§ 432(8) and 432.21(a) of the Code.

REQUIREMENTS

The Department has reorganized and revised the regulations setting forth eligibility requirements. In the proposed rulemaking, all the eligibility and compliance requirements for Extended TANF were set forth in § 141.51. In final rulemaking,

§ 141.51 contains only the basic eligibility policy for Extended TANF. Revised definitions are in § 141.52. Provisions applicable to individuals who qualify for Extended TANF based on domestic violence are found in § 141.53. Section 141.54 applies to individuals referred to and participating in the Maximizing Participation Project (MPP). Section 141.55 applies to individuals who are mandatory participants in the Road to Economic Self-Sufficiency Through Employment and Training (RESET) program. Section 141.56 applies to individuals for whom referral to either MPP or the Work Plus Program (WPP) or another employment and training program is deferred. The provision for special allowances for supportive services for all recipients of Extended TANF is found in § 141.57. Section 141.58 provides for appeals from termination or denial of Extended TANF.

The Department has also included the following additional amendments to 55 Pa. Code in this final-form rulemaking which were not included in the notice of proposed rulemaking:

Section 141.41(d) (relating to time limits)

Section 165.2 (relating to definitions)

Section 165.21 (relating to exemptions from RESET participation requirements)

Section 165.31 (relating to RESET participation requirements)

Section 165.41 (relating to special allowances for supportive services)

Section 165.51 (relating to compliance review)

Section 165.52 (relating to good cause)

Section 165.61 (relating to sanctions)

Section 187.22 (relating to definitions)

Section 187.27 (relating to waiver of cooperation for good cause)

Chapter 281 (relating to Time-Out benefits)

Although not included in the notice of proposed rulemaking for Extended TANF, these amendments conform to the final-form TANF regulation which the Department submitted for regulatory review to the Independent Regulatory Review Commission and the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services on July 8, 2002. (# 14-472). The basis for inclusion of the above provisions in this final-form rulemaking is that in order to be eligible for Extended TANF, a family must be otherwise eligible for TANF. (Section 141.51(b)). Thus, in order to ensure that provisions that are equally applicable to both programs are included in this final-form rulemaking, the Department has incorporated amendments which apply to both programs and which are cross-referenced throughout the eligibility requirements for Extended TANF. For example, the definition of MPP in § 141.52, is the same definition used in § 281.2 in the Time-Out program. The definition of the Agreement of Mutual Responsibility which is used for the TANF program is also used for the Extended TANF program. (§ 165.2.)

AFFECTED INDIVIDUALS, GROUPS AND ORGANIZATIONS

This rulemaking affects families with an adult head of household or spouse of head of household who has received TANF for 60 cumulative months. These families may qualify for Extended TANF on the basis of domestic violence or their willingness to enroll in and cooperate with programs and activities designed to lead toward self-sufficiency.

ACCOMPLISHMENTS/BENEFITS

The regulation provides additional services as well as cash assistance to families that did not achieve self-sufficiency in 60 months under TANF.

SUMMARY OF PUBLIC COMMENT AND CHANGES

Written comments, suggestions and objections were solicited within a 30-day comment period after the publication date of the proposed regulations. The Department received 109 public comments, 89 of which were one of three form letters. In addition to providing constructive comments or suggested revisions to the regulations, a majority of commentators commended the Department for proposing regulations that will

continue assistance to needy families who were unable to achieve self-sufficiency within the prescribed TANF time limits. Commentators included: citizens, advocates, the Minority Chairman of the 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 suggestion and comment and thanks the individuals and organizations that commented on this regulation. The following is a summary of the written comments received during the public comment period and the Department's responses.

1. *GA for children and other family members. (§§ 141.51(b)(2), 141.61(a)(1)(xii))*

Comment: Commentators suggested that the Department has no authority to make a family ineligible if the adult fails to comply with the Work Capacity Assessment (WCA), MPP or domestic violence services plan. Some called this a "full family sanction" whether or not the individual's failure to comply involves work requirements. They claimed that according to State law, except for violations of work requirements, only the individual is ineligible and not the entire family. One commentator said that this policy will punish children whose parents are not eligible for Extended TANF; the

commentator claimed that the Public Welfare Code specifies that children are eligible for General Assistance (GA) up to age 18 (or up to age 21 if they are in secondary school). Another commentator expressed concern that the Department's proposed policy regarding family ineligibility may encourage parents to "pass off" their children to other relatives so the children may qualify for cash assistance. Some commentators expressed concern that this policy will lead to increased foster care and related services, an undesirable outcome. Commentators submitted that the requirement in 62 P.S. § 432.21(a) that individuals apply first for Federal benefits does not justify precluding GA for the family when the individual fails to comply with this requirement. They disputed the Department's position that the State-run and partially State-funded TANF program is a "Federal benefit" covered under 62 P.S. § 432.21(a). They argued that this statute bars only the "person" who fails to cooperate in seeking Federal benefits.

One commentator claimed that the Department attempted to bolster its "TANF first" argument by making a subtle but important so-called "technical edit," changing the requirement from applying for a "Federal benefit" to a "Federal program." The commentator suggested that, in making this change, the Department apparently acknowledged that TANF is not a Federal benefit. The commentator suggested that this change is a departure from the statute, which requires that applicants and recipients

apply for Federal benefits, which are programs administered and paid for with Federal revenues, such as SSI. Moreover, the commentator claimed that TANF is not a Federal benefit; rather, it is a block grant of money paid to the states, commingled with state maintenance of effort (MOE) funds, to be used to benefit needy children as the state sees fit. The commentator said that the Department's position is undercut by the existence of the Time-Out program; if TANF is a Federal program that must be accessed first, before any State funds are utilized, there would be no way to administer Time-Out because recipients would have to immediately reapply for the Federally-funded TANF program first. In addition, the commentator suggested that attempting to recast the statutory requirement as an obligation to apply for any Federally-funded program requires all individuals to apply for a vast array of Federally-funded programs, such as public housing, food stamps, school breakfast and lunch, Head Start and the Women, Infants and Children Program (WIC). The commentator suggested that although application for such voluntary programs may sometimes be advisable, it is not, and should not be, necessary, nor does the Department intend this result.

Finally, the commentator claimed that cooperation with WCA, MPP or a domestic violence services plan are not definitive conditions of TANF eligibility, so a parent who does not cooperate with these cannot herself be denied GA (if otherwise eligible) for one of these reasons. The commentator said that although the Public Welfare Code

does not specify what constitutes a “definitive condition,” the definition can be readily inferred, and does not include work and other requirements that apply equally to TANF and GA applicants and recipients. The only conditions of TANF that truly distinguish it from GA, the commentator said, are that TANF requires: (1) a deprived child, and (2) a specified relative. Without these, an otherwise eligible individual may receive GA, not TANF; they contend there are no other rules that distinguish TANF from GA, and the Department may not create new differences the General Assembly did not authorize. The commentator noted that under 62 P.S. § 432(8), failure to meet a definitive condition of TANF solely because of refusing to cooperate in establishing eligibility for TANF results only in the person’s ineligibility for GA.

Response: The Department disagrees with the commentators’ suggestion that it has no authority to make the family ineligible if the adult fails to comply with WCA, MPP or other Extended TANF provisions that do not involve work requirements. Pursuant to 62 P.S. §§ 201(2), 403(b) and 432, the Department is authorized to establish rules, regulations and standards regarding eligibility of individuals who may be eligible for cash assistance, including GA. Contrary to the commentators’ suggestion that certain individuals (for example, children up to age 18, or age 21 for those in secondary school) are entitled to GA, 62 P.S. § 432(3) states that certain individuals “may be eligible for general assistance. . . subject to the rules, regulations, and

standards established by the department.” See 62 P.S. §§ 432, 432(3)(i). Thus, 62 P.S. § 432(3)(i) recites who may be eligible for GA, while § 432 authorizes the Department to establish the rules, regulations and standards for those individuals. The prefatory language of 62 P.S. § 432 evinces the General Assembly’s intent to confer broad discretion upon the Department in setting these rules and standards, including eligibility requirements.

For example, although some commentators questioned the Department’s authority to establish rules specifying: (1) that the family is ineligible for GA if the adult fails, without good cause, to cooperate in establishing eligibility for Federal benefits, and (2) that the family is ineligible for GA if the adult fails to meet a definitive condition of TANF solely because he refuses to cooperate in establishing eligibility for TANF, 62 P.S. § 432 and other statutory provisions clearly give the Department this discretion. While 62 P.S. §§ 432.21(a) and 432(8), respectively, preclude GA for an individual who fails to comply with these requirements, these provisions do not constrain the Department to limit GA ineligibility to the adult. Unlike 62 P.S. § 432.3(a)(iii)(2) (regarding durational sanctions for failure to comply with work requirements), the General Assembly did not limit ineligibility “only” to the individual. As such, under 62 P.S. § 432, the Department is authorized to establish the foregoing rules, stating that the family is ineligible if the individual (the adult) fails to comply with WCA, MPP or other Extended TANF provisions that do not involve work requirements.

Further, the Department does not agree with the commentator who suggested that “definitive conditions” under 62 P.S. § 432(8) do not include work and other requirements that apply equally to TANF and GA applicants and recipients. The Department disagrees with the commentator’s claim that the only definitive conditions of TANF (and Extended TANF) are that the family must include: (1) a deprived child, and (2) a specified relative. The Department interprets “definitive conditions” to mean “conditions of eligibility.” The Department does not agree with the commentator that “definitive conditions” of TANF (or Extended TANF) must be exclusive to TANF (or Extended TANF). Moreover, the Department does not agree that the regulations create new differences the General Assembly did not authorize. However, the Department agrees that if a family is ineligible for TANF or Extended TANF because the family does not include a deprived child and specified relative, the family may receive GA if otherwise eligible.

Other statutory provisions also bolster the Department’s discretionary authority to set eligibility rules and standards such as these. These rules and standards supplement, and are consistent with, those already articulated in the Public Welfare Code. For example, 62 P.S. § 201(2) specifies that the Department shall have the power and duty “to promulgate regulations, establish and enforce standards and to take such other measures as may be necessary to render the Commonwealth eligible for

available Federal funds and other assistance.” Certainly, this includes Federal funds for Extended TANF benefits. In addition, 62 P.S. § 403(b) provides that “the department shall establish rules, regulations and standards, consistent with the law, as to eligibility for assistance and as to its nature and extent.” (Emphasis added.) Section 403(b) also underscores that “[w]henever possible, except for residency requirements, and consistent with State law, the department shall establish rules, regulations and standards for general assistance consistent with those for aid to families with dependent children [now, TANF]. In no instance shall the rules, regulations and standards established for general assistance provide for assistance greater than that provided for [TANF].” As these provisions demonstrate, the General Assembly did not intend for 62 P.S. § 432 to comprise all the rules and standards for GA.

The Department disagrees with the commentator who attempted to distinguish “federal benefits” from “federal programs,” claiming that TANF is not a Federal benefit. This is a distinction without a difference. In fact, the General Assembly used these phrases interchangeably in 62 P.S. § 432.21(a). Therefore, § 141.21 is not a substantive departure from the statute. The Department disagrees that TANF is not covered under 62 P.S. § 432.21(a) simply because Federal TANF block grant money is commingled with State maintenance of effort (MOE) funds for TANF. Both are funding sources for the TANF program; both are used to provide TANF benefits to eligible

recipients. Section 432.21(a) does not specify that a benefit or program must be solely Federally funded to be considered a Federal benefit or program. The Department's position is not undercut by the existence of the Time-Out program. Section 403(b) of the Public Welfare Code grants the Department authority to establish rules and regulations for assistance benefits and the nature and extent of those benefits. The Department has chosen not to apply the provision of § 432.21(a) of the Public Welfare Code, 62 P.S. § 432.21(a), to the optional Time-Out benefits provided in the TANF program pursuant to 55 Pa. Code Chapter 281. Accordingly, Time-Out benefits are not listed in § 141.21(n).

Time-Out benefits are provided to TANF-eligible families who have not exhausted 60 months of TANF and who are exceeding applicable work participation requirements, are kinship caregivers or are victims of domestic violence. This is consistent with the General Assembly's intent to encourage and aid families in their efforts to achieve self-sufficiency. These benefits also enable children to remain in the care of relatives. Although Time-Out is funded with State funds, those State expenditures for families eligible for basic TANF are counted as State maintenance-of-effort expenditures for purposes of assuring the receipt of Federal TANF funds. 42 U.S.C.A § 609(a)(7). Expenditures of State funds qualify under § 609(a)(7) only if the families meet all the TANF requirements except the time limit and provisions

applicable to certain aliens. 42 U.S.C.A. § 609(a)(7)(B)(i)(IV). Families in Time-Out meet these requirements. In providing State-funded Time-Out benefits to families who could qualify for TANF, the Department is acting consistent with both the mandate in 62 P.S. § 201(2) to ensure the receipt of Federal funds and the requirement of 42 U.S.C.A. § 609(a)(7) to maintain the level of State expenditure on TANF-eligible families.

Moreover, the Department disagrees that the “federal programs/benefits first” rule requires all individuals to apply for every type of Federally-funded program/benefit, including non-cash benefits, public housing, food stamps, school breakfast and lunch, Head Start and WIC. These programs/benefits are supplementary in nature; 62 P.S. § 432.21 requires applicants and recipients to pursue Federal programs/benefits as the “primary source of financial assistance” for these individuals. Non-cash benefits are generally not a primary source of financial assistance.

The Department does not agree that this policy will punish children whose parents are not eligible for Extended TANF, encourage parents to “pass off” their children to other relatives so the children may qualify for cash assistance or lead to increased foster care and related services. For those not subject to RESET participation requirements, failure to comply does not yield a full-family durational sanction under § 141.55(c), which follows 62 P.S. § 432.3 and 55 Pa. Code § 165.61 (relating to sanctions). Recipients who become ineligible for failure to comply with

Extended TANF provisions that do not involve RESET participation requirements (for example, requirements to cooperate in obtaining a WCA or to comply with an MPP service plan) may reestablish eligibility for Extended TANF an unlimited number of times.

2. 30-hour requirement. (§§ 141.51, 141.52)

Comment: Commentators claimed that the 30-hour WPP work and work-related activity requirement violates Federal and State law. Specifically, they argued that requiring 30 hours violates Act 1996-35, the Fair Labor Standards Act (FLSA) and the Americans with Disabilities Act (ADA); they also suggested that the 30-hour rule is bad policy. They asked the Department to articulate a rationale for requiring this more stringent work requirement after 60 months and for expecting that recipients will be able to meet the 30-hour requirement. They asked the Department to state the specific statutory authority for requiring 30 hours of combined work or work-related activities and questioned the statutory authority for making this requirement a condition of eligibility.

Further, they suggested that the regulations be revised to require compliance with Federal and State employment laws (for example, involving unemployment insurance, the Occupational Safety and Health Act (OSHA) and FLSA) and civil rights

laws. One commentator said that the 30-hour rule violates the ADA for disabled persons unable to work those hours, but required to participate in WPP. The commentator said the Department should modify this requirement for those who cannot work 30 hours per week due to disability (whether their own or a child in their care), for example, by requiring less than 30 hours for these individuals or excusing them from the requirement based on "good cause." Whether a disabled individual cannot work the requisite 30 hours on occasion or as a rule, the commentator suggested that the regulations be revised to accommodate these individuals. Moreover, the commentator said that the 30-hour requirement is inconsistent with the minimum 20-hour per week work requirement in 62 P.S. § 405.1(a.2)(6) because the statute requires 20 hours per week, based on an average. Also, the commentator claimed that the 30-hour requirement is more objectionable than the proposed requirement to "maximize employment," which appeared in the Department's proposed rulemaking for the basic TANF program at 31 Pa. B. 5875 (October 20, 2001). Arguing that the 30-hour minimum creates an "all or nothing" approach to work that makes no sense, the commentator asked whether a person who, trying as hard as she can, can find a job for 25 hours per week should be treated the same as a person who is not meeting the work requirement.

Commentators also suggested that 30 hours may not be possible for everyone who is not self-sufficient after 60 months of TANF, especially those caring for children with special needs, single parents who cannot balance working 30 hours and other responsibilities, such as raising their children or caring for elderly or infirm relatives, and those without guaranteed child care or transportation. They contended that individuals in these situations should not be sanctioned. Some commentators submitted that those who must care for disabled or infirm relatives are best suited to do so because they have the necessary skills and compassion for this difficult task. They noted that a 30-hour per week job might pay less per week than a 20-hour job if the hourly wage is lower. One commentator questioned whether the Department has information about these factors: the distance between families' homes and available child care; availability of public transportation at all necessary times; how long it takes to travel from home to child care to work and back again; what time is left for education and training in light of the Department's "work-first" policy. One commentator suggested that the regulations be revised to also allow an individual to qualify for Extended TANF if the individual engages in an average of at least 20 hours per week of private sector employment.

Response: Although the Department disagrees that the 30-hour WPP work and work-related activity requirement violates Federal and State law, it has revised the regulations to specify that: (1) program rules and requirements will be modified in

accordance with the ADA; and (2) the 30-hour work and work-related requirement will consist of combined work and work-related activities, in accordance with the FLSA. The Department finds that it is unnecessary to revise the regulations to require compliance with other Federal and State employment and civil rights laws. The Department is already required to comply with Federal and State law whether or not the regulations cross-reference applicable statutory provisions.

The Department is authorized to require at least 30 hours of combined work and work-related activities for individuals who must comply with RESET. Contrary to the commentators' claim, this requirement does not violate Act 35 and is not inconsistent with the minimum 20-hour work requirement in 62 P.S. § 405.1(a.2)(6). Pursuant to 62 P.S. §§ 403(b), 405, 405.1, 432 and 432.3, the Department is authorized to require individuals to work more than the statutory minimum of 20 hours per week. Under 62 P.S. §§ 403(b) and 432, the Department may establish eligibility rules for its programs. The Public Welfare Code does not contain an exhaustive recitation of the rules and requirements for the Department's programs; Departmental regulations contain additional eligibility rules and requirements for these programs. Likewise, 62 P.S. § 405 authorizes the Department to establish eligibility rules for employment, work-related activities and training for employable recipients. In addition, 62 P.S. § 405.1(a.2)(6) sets the statutory minimum at 20 hours per week as a condition

of eligibility after 24 months of cash assistance, but § 405.1 nowhere states that this is the maximum number of hours an individual is required to work as a condition of eligibility. Indeed, under 62 P.S. §§ 432.3(a)(ii) and (iii), an individual is subject to sanction if he fails, without good cause, to apply for work at such time and manner as the Department prescribes, accept referral to and participate in a work-related activity, or work in and retain employment in which he is able to engage. Accordingly, if the Department directs that a nonexempt individual must apply for work through WPP, accept referral to and participate in a work-related activity through WPP, or work in and retain employment in which he is able to engage through WPP, he must comply unless he establishes good cause for not doing so.

The 30-hour requirement is also squarely consistent with Federal law. The Department is authorized under 42 U.S.C.A. § 608(a)(7) and 45 CFR § 264.1 to establish rules for TANF after 60 months, exempting up to 20% of the caseload, as specified in 42 U.S.C.A. § 608(a)(7)(C)(ii). In addition, under 42 U.S.C.A. § 609(a)(3), the Department is subject to penalty if it fails to satisfy the minimum work participation rate for that year. See 42 U.S.C.A. § 607(a) (regarding participation rate requirements). The work participation rate is based on the number of adults and minor child heads of household who are "engaged in work," as defined in 42 U.S.C.A. § 607(c). In calculating the work participation rate for the year 2000 and beyond, an individual is

considered “engaged in work” if he participates in at least 30 hours per week, consisting of at least 20 hours of “core” activities (for example, unsubsidized and subsidized employment) and the balance consisting of a broader range of activities. See 42 U.S.C.A. §§ 607(c) (regarding minimum work requirements for individuals to be considered “engaged in work”) and (d) (regarding work activities).

In part, the Department’s rationale for requiring at least 30 hours per week of combined work and work-related activities (including education and training) is based on the Department’s goal of complying with Federal work participation rate requirements. This requirement is also grounded in the legislative directive that work is essential to self-sufficiency. Indeed, many current TANF recipients are already participating 30 hours per week in contracted employment and training programs. If working at least 20 hours per week during 60 months of TANF did not lead to financial independence, the Department finds that stepped-up efforts—of recipient and agency alike—are needed. Training, job search and other work-related activities are intended to bolster an individual’s participation in work activities. For these reasons, the Department also disagrees with the commentator’s suggestion that the regulations should specify that an individual may receive Extended TANF if he engages in an average of at least 20 hours per week of private sector employment. The Department does not find sufficient reason to treat those working in private sector employment differently than those working in the public sector or in one of the Department’s employment and training programs.

The final-form regulations clarify that unless an individual establishes good cause for not complying with the minimum 30-hour per week requirement, if he is working 20-29 hours per week in unsubsidized employment, he must maintain employment and enroll and participate in a job retention and advancement program for the balance (§ 141.55(a)(3)). An individual who is employed 20-29 hours per week, but establishes good cause for not participating in 30 hours of combined work and work-related activities, is required to maintain employment and address the good cause situation through WPP (§§ 141.55(a)(6)(i) and (iv)). Further, an individual who is employed less than 20 hours per week must maintain employment and enroll in WPP for the balance (§ 141.55(a)(4)), unless the individual establishes good cause for not participating in 30 hours of work and work-related activities. In that case, unless he has good cause for not complying with RESET, the individual must maintain employment, comply with RESET by participating in WPP for a combined total of at least 20 hours per week, and address the good cause situation (§§ 141.55(a)(6)(ii) and (iv)). Finally, an individual who is unemployed must participate in WPP, unless he establishes good cause for not participating in at least 30 hours of work and work-related activities (§ 141.55(a)(5)). If the individual has good cause for not participating in 30 hours, he must comply with RESET, unless he has good cause for not doing so, by participating in WPP for at least 20 hours per week and address the good cause situation through WPP (§§ 141.55(a)(6)(iii) and (iv)). As revised, the final-form regulations protect individuals who are required to comply with RESET but establish good cause for not complying with the minimum 30-hour work and work-related requirement of Extended TANF.

In short, individuals who establish good cause for not complying with the 30-hour work requirement are not subject to sanction under § 141.55(c), but must comply with RESET, unless they establish good cause for not complying with RESET. The Department's policy is flexible, fair and illustrates that the 30-hour requirement is not an "all-or-nothing" approach or "bad policy," as commentators suggested. For example, an individual who declines a 30-hour job in favor of a 20-hour job that pays more per week may have good cause for not taking the 30-hour job. However, unless the individual establishes good cause for not participating in 30 hours of work and work-related activities, he is required to participate in a job retention and advancement program for the balance. Likewise, an individual caring for a disabled or infirm relative may establish good cause for not working 30 hours per week. He, too, must comply with § 141.55(a), unless he establishes good cause for not complying with RESET. If he must comply with RESET, he is required to address the good cause situation, which may include seeking appropriate care within a reasonable distance from home. Although the Department agrees that family members are often best suited to provide nurturing care for disabled or infirm relatives, appropriate care within a reasonable distance from home may be available from non-family members in or outside of the home.

Finally, the Department has systematic and anecdotal information regarding available child care, public transportation, travel times and distances between areas and other factors affecting an individual's ability to comply with the 30-hour work requirement and RESET. Caseworkers are usually familiar with the transportation and services in their counties; caseworkers also receive information about these factors from the recipients.

3. Domestic violence. (§§ 141.51(a)(1))

Comment: Commentators suggested that the regulations do not protect victims of domestic violence. They claimed that: (1) the regulations do not fully implement the Family Violence Option (FVO) and recommendations of the Department's Domestic Violence/TANF Task Force (DVTF); (2) the regulations should provide for waivers generally and specifically, waivers involving the time limit "for as long as necessary," and for families "at risk of further violence," as provided in Federal law; (3) domestic violence victims should qualify for Extended TANF whether or not they received a prior waiver of child support or work requirements; (4) the regulations should include a comprehensive description of who is eligible for a time limit waiver based on domestic violence, including those with current, past or threat of future domestic violence, whether or not they had waivers of program requirements; (5) the regulations should

clarify that Extended TANF is available for those with past, current or at risk of future domestic violence; (6) the regulations should provide a comprehensive description of the domestic violence services plan. They suggested that the regulations be revised to provide guidance on Extended TANF for victims of domestic violence who: (1) have or have not had waivers of other program requirements (including those who received Time-Out benefits); (2) are experiencing or have experienced domestic violence but do not currently have (and did not previously obtain) waivers of program requirements; or (3) will experience domestic violence in the future and need to return to TANF after a brief time off TANF. They claimed that all of these individuals are encompassed within the FVO, and that they (as well other recipients) have had no prior notice that Extended TANF would be available. They also said that many victims may have chosen not to pursue a waiver, and that clear information regarding domestic violence waivers has not always been readily available to them. One commentator asked if a family experiencing domestic violence can qualify for Extended TANF if domestic violence was not previously established under TANF. If so, the commentator said the regulations should include a cross-reference to this process.

One commentator asked the Department to clarify the duration of Extended TANF for domestic violence victims other than those with good cause waivers for child support or work requirements. The commentator suggested that for those with current

or previous waivers of program requirements or who received Time-Out due to domestic violence, the minimum duration should be the length of the waiver, supplemented by an assessment of need based on current or future risk of domestic violence. Another commentator asked the Department to allocate more resources to improve how caseworkers handle domestic violence issues. Yet another commentator suggested that the regulations be revised to help individuals “break the abusive cycle” and to disqualify those who continue “of their own free will, to engage in a relationship which had a history of violence or abuse.” The commentator urged the Department to require counseling and anger management sessions as a condition of eligibility for cash assistance. One commentator suggested that § 141.51(a)(1)(iv) of the proposed regulations provides for a domestic violence services plan that is inconsistent with Federal regulations (45 CFR § 260.55(c)) requiring that waivers be “accompanied” by a services plan. The commentator suggested that proposed § 141.51(a)(1)(iv) be revised to track and cross-reference 45 CFR § 260.55(c).

Another commentator said that the regulation does not provide enough detail about what constitutes a domestic violence plan, and that it should specify or cross-reference the requirements of a domestic violence services plan. This commentator asked the meaning of the phrase “person trained in domestic violence,” the level of training required to develop a domestic violence services plan, and whether these

persons are employed by the Department or under Department contracts for services. Finally, this commentator asked what process the Department will follow to rescind a waiver when eligibility is reviewed, and how an applicant can appeal a finding that would rescind eligibility; the commentator suggested that the Department include or cross-reference these processes in the regulation.

Response: The Department finds that this rulemaking does protect victims of domestic violence. The Extended TANF regulations implement the FVO by including domestic violence as a criterion for receipt of assistance beyond 60 months. Section 141.51(a)(1), revised and redesignated § 141.53, sets forth the eligibility requirements for Extended TANF based on domestic violence.

The Department, in collaboration with members of the DVTF, will develop a comprehensive FVO regulation that includes FVO policies and recommendations of the DVTF not yet included in either the basic TANF regulations or this final-form rulemaking. These planned enhancements are primarily procedural rather than substantive. These include provisions related to policies and recommendations related to universal notification, referral for supportive services, uniform verification requirements, a more detailed description of the domestic violence services plan, battered immigrants and waivers of TANF program requirements for other than time limits, child support and RESET.

The Department agrees with the commentators' suggestion that the regulations should provide for waivers of the time limit "for as long as necessary" and has revised §§ 141.51(a)(1)(ii) and (iii), redesignated § 141.53(c) accordingly. This revision is consistent with 42 U.S.C.A. § 602(a)(7)(A)(iii) and 45 CFR § 260.52(c), which outline the basic provisions of the FVO. This revision is consistent with and, in fact, is more generous than one commentator's suggestion that the minimum duration of a time-limit waiver be the length of the child support or work requirement waiver, supplemented by an assessment of current or future risk of domestic violence.

The Department appreciates the commentators' suggestion that the regulations should provide for waivers of time limits for families "at risk of future domestic violence" but disagrees that this language is consistent with Federal law. Federal statute at 42 U.S.C.A. § 602(a)(7)(A)(iii) and regulations at 45 CFR §§ 260.52(c) and 260.59(a)(2)(i) provide for waivers of time limits for families "at risk of further domestic violence." Consequently, the Department has revised § 141.51(a)(1), redesignated § 141.53(a), to clarify that a family is eligible for Extended TANF if an individual or family member is experiencing, has experienced, or is at risk of further domestic violence.

In response to the commentators' suggestion that victims of domestic violence should qualify for Extended TANF whether or not they received a prior waiver of child support or work requirements, the Department agrees and has revised § 141.51(a)(1),

redesignated § 141.53(a) accordingly. As explained above, § 141.53(a) provides that a family is eligible for Extended TANF if the individual or family member is experiencing, or has experienced domestic violence, or is at risk of further domestic violence. Additionally, § 141.53(a)(2) outlines verification requirements for families which never had a waiver of TANF child support cooperation or work requirements. Because the regulations clarify that a family may receive Extended TANF on the basis of domestic violence even though the domestic violence was not established under TANF, a cross-reference is unnecessary.

The Department disagrees with the commentators' suggestion that the regulations should include a comprehensive description of the domestic violence services plan. The Department has purposely refrained from including more specific detail on the services plan at this time. The Department has made a commitment to the DVTF that its members will be permitted to play a major role in the development of "final" FVO regulations, which the Department expects will include a more comprehensive description of the domestic violence services plan. The Department agrees with the commentators' suggestion that the regulations should cross-reference the Federal regulations at 45 CFR § 260.55(c), and has revised § 141.51 (a)(1)(iv), redesignated § 141.53(a)(2), as follows: "A family eligible for Extended TANF due to domestic violence shall have a domestic violence services plan that meets the requirements of 45 CFR § 260.55(c) (relating to what are the additional requirements for Federal recognition of good cause domestic violence waivers)."

With regard to one commentator's question concerning persons trained in domestic violence, the Department refers the commentator to the final Federal TANF rulemaking that was published at 64 FR 17720 (April 12, 1999). While Federal law does not define "a person trained in domestic violence," the preamble for the TANF Federal regulations, 64 FR 17745, provides some guidance to states in this area. According to the Department of Health and Human Services, Administration for Children and Families (ACF), states have the flexibility to decide the appropriate roles for TANF staff and domestic violence service providers in administering the provisions of the FVO. The Federal expectation is that persons trained in domestic violence will develop service plans and assessments. However, Federal regulations do not prescribe any specific training curriculum, staff credentials or administrative structure for delivering services. Notwithstanding the lack of regulatory guidance on these issues, the Department will expect staff who perform these functions to have some training in domestic violence and must have some level of special knowledge and expertise to make appropriate decisions in these highly sensitive cases.

Consequently, from June 1999 through February 2000, the Department provided training to caseworkers, in collaboration with the Pennsylvania Coalition Against Domestic Violence (PCADV). The training included information about: (1) domestic violence and its impact on self-sufficiency; (2) Department policies and procedures related to domestic violence; and (3) services, supports and protections available to

victims through PCADV and other agencies. One objective of the training on domestic violence provided to caseworkers was to help them understand why victims make certain decisions related to staying or leaving an abusive relationship. In many instances, leaving does not reduce the risks. In some instances, leaving may cause the violence to escalate.

Individuals who disclose domestic violence and agree to referral for counseling and other supportive services are directed to a domestic violence service provider in the community. Depending upon the individual's circumstances and preference, the domestic violence services plan may be developed by the service provider or the caseworker.

The Department agrees with the commentator's request that the Department allocate more resources to improve how caseworkers handle domestic violence issues. Under a contract with the Department and with input from Department staff, PCADV is developing a desk guide for caseworkers that will serve as a quick reference for recognizing and responding to the needs of domestic violence victims. In addition to the desk guide for caseworkers, each CAO will receive a Domestic Violence Manual that contains: a) detailed information on domestic violence, for example, what it is, how to recognize it and where to make appropriate referrals; and b) specific references to Departmental policies in place that are relevant to the treatment of victims of domestic violence. Finally, the Department plans to provide additional training to CAO staff on the numerous changes to policy that have occurred since the initial FVO training.

The Department disagrees with the commentator's suggestion that the regulations should be revised to deny or terminate assistance benefits to individuals who stay in abusive relationships. This commentator specifically requested that: (1) individuals who continue in abusive relationships "of their own free will" be denied or terminated from the Extended TANF program; and (2) that participation in anger management and counseling programs be conditions of eligibility for Extended TANF. Caseworkers have received training in recognizing the signs of domestic violence and will refer individuals to appropriate voluntary counseling and protective services. However, the Department does not agree that attendance in counseling and anger management sessions should be conditions of eligibility for Extended TANF. Victims may be reluctant to disclose domestic violence if they know that accessing services is mandatory, especially if they believe they may be in more danger if they seek such help. The decision to seek help must be the individual's, because counseling is most effective when it is voluntary and unencumbered by the fear of reprisal by the perpetrator.

Finally, with respect to the commentator's question about the processes followed to notify families of ineligibility for Extended TANF or a waiver and their right of appeal, the answer is that the customary regulatory processes are followed. If the family is determined ineligible for a waiver or for Extended TANF on the basis of domestic violence, the caseworker will generate a notice of adverse action that informs the family of the reasons for the termination and advises them of their right to appeal the decision.

Rather than add a cross-reference to Chapter 275 (relating to Appeal and Fair Hearing and Administrative Disqualification Hearings) in § 141.53, the Department has added § 141.58 to provide the following: “An individual may appeal the denial or termination of Extended TANF under Chapter 275 (relating to Appeal and Fair Hearing and Administrative Disqualification Hearings).”

4. Verification of domestic violence. (§ 141.51(a)(1))

Comment: Commentators suggested that the regulations set forth verification procedures for domestic violence, including those for individuals who have not previously provided verification of domestic violence and who previously verified and need not produce further verification. They also suggested that where verification is required, a uniform verification form that includes Extended TANF, Time-Out and other program requirements should be used; they say that this will make procedures for Extended TANF consistent with those for support waivers and Time-Out. They also said that as with the support waivers and Time-Out, this form would be used to accompany any one of the following types of verification: documentation, third party verification and self-affirmation. Further, they said the regulations should clearly state that any one of these types of verification is sufficient to establish eligibility for Extended TANF.

Commentators also requested that the regulations be revised to clarify the 6-month review process and the verification process during this review; they suggested that if the individual has provided verification to support waiver of any program requirement, no further verification should be required at the 6-month review unless circumstances have changed.

Response: The Department agrees with the commentators' suggestion that the regulations should set forth the verification requirements for domestic violence, including requirements for individuals who have, and those who have not, previously provided verification. The Department has revised § 141.51(a)(1)(i), redesignated § 141.53(a)(1), to provide that no further verification is necessary if the adult has a current or past waiver of child support or work requirements, or both, or received Time-Out benefits based on a claim of domestic violence. Section 141.53(a)(2) provides that verification or self-affirmation of domestic violence is required of individuals who have not had prior good cause waivers of program requirements or received Time-Out benefits based on domestic violence.

The Department also agrees with the commentators' suggestion that a uniform domestic violence verification form be used that applies to Extended TANF and Time-Out. Section 141.53(a)(3) specifies that the CAO will complete a domestic violence

verification form under § 187.27(b)(1)(vii), with the exception that the 6-month limitation as specified in § 187.27(b)(1)(vii)(C) does not apply. This form, the PA/CS 1747, has been renamed the “Domestic Violence Verification Form” (formerly titled “Verification of Good Cause Based on Domestic Violence”) and revised to include check-off blocks for RESET, Time-Out and Extended TANF. Section 187.27(b) is revised to reflect the new “generic” name of the PA/CS 1747.

With respect to the commentators’ request that the regulations clarify the 6-month review and verification process, the Department agrees. Section 141.51(a)(1)(v), redesignated §§ 141.53(d)(1) and (2), is revised to provide that the CAO will review eligibility for Extended TANF based on domestic violence at least every 6 months and will not require additional verification unless circumstances have changed.

5. *Time limit policy. (§§ 141.41, 141.41(f), 141.41(f)(1))*

Comment: Commentators said that the regulations should be consistent with and include the Department’s other “essential” exceptions to the time limit policy, including several exceptions that have already been implemented, such as Time-Out and non-assistance. They also suggested that the regulations include a clarification of what counts or does not count toward the 60-month time limit (for example, assistance

reimbursed through child support collection). They suggested that all circumstances that do not count toward the 60-month limit should be included in subsection (f). One commentator suggested that the regulations clarify the relationship between Regulation # 14-472 (which establishes the 60-month time limit for receipt of TANF assistance) and this rulemaking; specifically, the commentator suggested that a clear statement be made that the 60-month limit will not apply until after this rulemaking is final.

Further, commentators said that § 141.41(f)(1) describes “one circumstance when a TANF recipient would not be charged with assistance against their 60-month time limit;” they noted other circumstances such as non-assistance, Time-Out and other examples described in the Department’s Cash Assistance Handbook. One commentator suggested that the regulations be revised to say that “periods of cash assistance that are solely State-funded do not count toward the 60-month limit.” Another commentator said proposed § 141.41, as written, would not exclude the months spent in the Time-Out program from a recipient’s 60 months.

They reiterated a comment they made about the basic TANF regulations and time limit policy: that the Department should publish all proposed rulemaking involving exceptions to the time limit as soon as possible, then file a comprehensive final-form regulation containing all TANF-related provisions as a single regulation. They also said

that finalizing the basic TANF regulations before this rulemaking will mean that “[m]any questions regarding the overall TANF program will remain unanswered under this scenario.” They also questioned whether the amendments to § 141.41 in this rulemaking remain consistent with Regulation #14-472.

Response: The basic TANF program is the foundation for this rulemaking, Extended TANF. Given the discrete nature of Extended TANF, the Department decided not to combine it with the basic TANF rulemaking. The Department chose to promulgate the basic TANF rulemaking first.

These regulations are consistent with the eligibility requirements for the basic TANF program. Basic TANF includes regulations for the State-funded Time-Out program at 55 Pa. Code Chapter 281 (relating to Time-Out benefits). Sections 141.41(d)(8) and 281.1 clarify that benefits received under Time-Out do not count towards the 60-month limit. Section 141.41(d)(6) clarifies which benefits are not considered TANF “assistance received” for purposes of calculating months of TANF received. Accordingly, with these changes in §§141.41(d)(6) and (8) and 281.1, it is not necessary to revise § 141.41(f)(1).

Individuals who received 60 months of TANF prior to the effective date of this rulemaking and are otherwise eligible for TANF have continued to receive TANF. 32 Pa. B. 432 (January 26, 2002). Upon publication of this rulemaking, individuals who have exhausted 60 months of TANF assistance will be required to comply with the eligibility requirements for Extended TANF.

The Department has not included in this rulemaking the initiatives and projects known as non-assistance. Non-assistance is not subject to the 60-month time limit. The 60-month time limit applies only to TANF "assistance." Accordingly, an exception to the time limit for non-assistance is unnecessary. Non-assistance initiatives, announced by public notice of intent to amend the TANF State Plan published at 30 Pa.B. 2954 (June 10, 2000), include work supports and other services to low-income families. Although Federal law limits non-assistance cash benefits to a maximum of 4 months, the Department's non-assistance benefits do not include monthly cash benefits.

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 and the 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.

There is no time limit for receipt of Extended TANF. 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 pursuant to this rulemaking.

It was not necessary to revise this rulemaking to provide that cash assistance that is solely State-funded is not counted towards the 60-month limit. The regulations are clear that the 60-month time limit applies only to TANF cash assistance, not to State-funded General Assistance or Time-Out benefits. 55 Pa. Code §§ 141.41(d)(1) and 281.1.

6. No time limit.

Comment: One commentator requested “an end to time limits.” One commentator suggested that the TANF 5-year time limit should not apply to families of disabled immigrant parents who arrived in the U.S. after August 22, 1996 and who do not qualify for Supplemental Security Income (SSI) because of the SSI prohibition against payments to non-citizens.

Response: With respect to the commentator’s request to “end time limits,” the Department refers the commentator to Federal regulation at 45 CFR § 264.1(a)(1) which prohibits states from providing TANF assistance to a family in which

an adult head-of-household or spouse of head-of-household has received TANF assistance for 60 cumulative months. However, the Department has elected the Federal option at 45 CFR § 264.1(c) that permits states to extend TANF assistance for up to 20% of the average monthly number of families receiving assistance during the fiscal year (or the preceding fiscal year). Families in the 20% are limited to families with a hardship or domestic violence. Cash assistance received under the Extended TANF program is not time-limited, but families must meet specific eligibility requirements and comply with individualized plans for self-sufficiency to remain eligible. Families of disabled immigrant parents who have received 60 months of TANF may qualify for Extended TANF in the same manner as families of parents who are citizens.

7. LEP. (§§ 141.51(a)(2), 141.52)

Comment: Commentators suggested that the Department revise the regulations to specifically acknowledge or assist those with Limited English Proficiency (LEP) and provide “off-the-clock” assistance for persons with LEP. One commentator claimed that no vocational training programs have been offered in languages other than English. The commentator also contended that persons with LEP did not have the opportunity to engage in training programs, job readiness or work experience programs

which could enable them to enhance their skills and prepare to move from welfare to work. The commentator argued that the Department is required by Title VI of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000d, to take affirmative actions to overcome the effects of prior discrimination.

One commentator stated that persons with LEP have not had the opportunity to use their 5 years on TANF to participate in English-as-a-Second Language (ESL) classes. That commentator further argued that without Departmental funding for ESL classes, persons with LEP will not have the opportunity to participate in ESL programs with an intensity level needed to significantly advance in their English proficiency.

Response: The Department disagrees with the commentators' allegation that persons with LEP did not have the opportunity to participate in ESL classes, vocational training, job readiness or work experience programs. The Department acknowledges the need for additional employment and training services for persons with LEP. The Department and its contractors are continuing to develop more programs and services for LEP individuals. Employment and training services have been and continue to be available in up to 23 languages other than English. Not all programs are available in all languages. Employment and training contractors are required to provide services to persons with LEP in the participant's language for the following: job search, skills

training, work experience, literacy, remedial education and job retention and advancement. In addition to language instruction provided by employment and training contractors, recipients of TANF have qualified for special allowances to attend ESL classes in the community. Because neither employment and training services nor ESL classes were denied to persons with LEP in the past, the Department disagrees with the commentator's suggestion that there has been prior discrimination which necessitates affirmative action pursuant to Title VI.

The Department did not adopt the commentator's suggestion that the Department create a new basis for eligibility for "off-the-clock" benefits for persons with LEP. LEP alone is not a basis for eligibility for any cash assistance benefit. Individuals with LEP may qualify for Extended TANF under §§ 141.53 – 141.56 in the same manner as any other individuals. In addition, they are provided with language services needed to ensure meaningful access to benefits and programs. As discussed more fully above, contractors are required to provide employable recipients with employment and training services in the language they understand. In addition, ESL classes are included in WPP as specified in § 141.52 and are available to individuals in other employment and training programs. ESL classes also may be part of an individual's MPP service plan as specified in § 141.52. Extended TANF recipients whose referral to MPP or WPP is deferred or who qualify for Extended TANF based on domestic violence may participate in ESL classes. An individual whose approved AMR includes participating in ESL classes qualifies for supportive services to attend those classes.

The Department disagrees with the commentator's suggestion that it is necessary for the Department to fund ESL classes in order for persons with LEP to advance significantly in their English proficiency. Commentators presented no evidence to support their view that current methods of ESL instruction are insufficient. ESL instruction is included in contracted WPP and other employment and training programs. In addition, ESL classes are available from multiple community agencies.

8. Short-term emergency benefits. (§ 141.41)

Comment: Commentators suggested that the Department provide short-term cash benefits (up to 4 months) as an available form of non-assistance for families facing a crisis. They said that providing these benefits makes more sense than MPP or WPP for people facing sudden unemployment, homelessness or other crisis who may need only short-term help to get back on track. Commentators claimed that the regulations create or fail to correct undue burdens on those needing short-term help due to an emergency, temporary disability or job loss. One commentator suggested that the Department consider establishing a monthly stipend program to help low-wage workers meet transportation and other work expenses. Commentators maintained that for an individual who has lost a job but has a considerable work history, WPP is not advisable and may interfere with finding a job; for this individual, job search may be the best

course of action. Similarly, they said that an individual involved in an auto accident may not need MPP; some individuals do not need to address long-term employment barriers; they need only to overcome temporary problems, which short-term assistance may help rectify. Some commentators claimed that providing these benefits may avert family separation during short-term family crises. They say the Department should maximize the flexibility it has to address these temporary problems by providing, or acknowledging the possibility of offering, short-term cash benefits as non-assistance.

Response: The Department does not agree that offering short-term (up to 4 months) cash benefits as non-assistance is the best resolution for those facing unexpected, temporary crises such as sudden unemployment, homelessness or other emergencies. The Department's non-assistance benefits do not include cash benefits permitted under Federal law under limited circumstances for a maximum of 4 months. Instead, these individuals, if otherwise eligible, may receive cash assistance under the TANF program for 60 months, then cash assistance under the Extended TANF program after 60 months. The Extended TANF program provides cash assistance to eligible individuals whether they need short-term or long-term help to get back on track.

As commentators noted, individuals facing short-term crises may not need MPP or WPP. The Department agrees that some of these individuals do not need to address long-term employment barriers and may have temporary good cause situations; many

of these good cause situations have straightforward solutions. For these individuals, the Department added § 141.56 (relating to deferred referral) to temporarily defer referral to MPP or WPP for certain individuals. For example, the Department agrees that an individual whose good cause situation involves temporary injuries from an automobile accident may not require MPP referral. In that case, the individual may be referred to MPP if he continues to qualify under § 141.54 after the redetermination under § 141.56(b).

For individuals who have lost a job and who have considerable work history, the Department agrees that job search may be the best course of action. However, those who have lost a job are required to participate in WPP unless they establish good cause or verify an exemption. Work activities plus job search would be prescribed for these individuals. The "plus" portion of the Work Plus Program is designed to address the individual's needs, which may involve job search.

As revised, the regulations maximize the Department's flexibility in addressing these temporary problems in a way that non-assistance benefits would not. WPP offers a broad array of activities and services (for example, work activities, literacy training, ESL classes, job and life skills training, vocational assessments and job search). In addition, those eligible under § 141.56 may receive supportive services such as

transportation and child care to support their efforts to become employable. Contrary to one commentator's suggestion, a separate "monthly stipend" program for these individuals is unnecessary and would duplicate benefits available under the TANF and Extended TANF programs. Before and after 60 months of TANF assistance, these and other individuals may receive cash assistance, if otherwise eligible. Because the Department recognizes that those requiring short-term help may need short-term solutions, the regulations do not "create or fail to correct undue burdens" on these individuals; indeed, the purpose of the regulations is to help lift those burdens.

Finally, the Department disagrees that providing non-assistance cash benefits in lieu of TANF or Extended TANF would help avert family separation during short-term family crises. These regulations provide necessary supportive services and cash assistance for eligible individuals and their families who need help in addressing their barriers to self-sufficiency.

9. Specificity/clarity of regulations regarding WCA, MPP and WPP.
(§§ 141.51(a)(2), 141.52)

Comment: Commentators claimed the regulations are too general regarding WCA, MPP and WPP, seem inconsistent, and do not indicate how these will work. Some commentators argued that the WCA and WPP are not clearly defined. They

suggested that the Department's standards for assessing disabilities and other barriers and determining exemptions are unclear and lack standards and sufficient procedural safeguards to protect clients' rights. They also claimed the regulations do not contain substantive provisions addressing the eligibility requirements for these programs and how they will be implemented. One commentator asked the Department to explain the meanings of "functional limitations" and "good cause situations" and questioned how a physician or psychologist gets Department approval. Commentators contended that the regulations do not explain how MPP and WPP will promote self-sufficiency, and what support services will be available to recipients in MPP and WPP (such as child care subsidies and transportation) to enable them to meet work requirements and participate in activities such as mental health services and drug and alcohol counseling and treatment. They noted that these activities are often very time-consuming and require child care for recipients participating in them. One commentator said that the regulations are unclear as to whether MPP through Extended TANF will be the same version of MPP offered through the Time-Out program.

One commentator stated that the individuals who will be required to obtain a WCA are not exempt from RESET. Another commentator expressed concern that "there is no provision for the type of job, training or hiring." In addition, one commentator questioned whether mothers exempt due to caring for a child under 12

months will be channeled into MPP or Work Plus; the commentator suggests that the regulations be revised to clarify this. This commentator suggested that these mothers be eligible to participate in MPP. Some questioned whether young mothers and pregnant women will be able to participate in MPP, and suggested that MPP requirements be adapted to fit the needs of these women. One commentator said that the regulations have no standard for exemption from MPP when appropriate.

One commentator said that connecting severely disabled adults with Supplemental Security Disability Insurance/Supplemental Security Income (SSDI/SSI) should be an explicit goal of MPP and that standards for making such referrals should be addressed. The commentator also stated that the regulations should clarify what help individuals seeking SSDI/SSI will receive during the SSDI/SSI application process, and how they will be treated in the MPP program during the application and appeal processes. The commentator suggested that the Department adopt a provision that would encourage those with serious, permanent disability to apply for the appropriate program, with assistance where necessary from both MPP and Disability Advocacy Program (DAP). The commentator also claimed that the regulations do not address the possibility that the conditions that preclude the individual from working may not be remediable in the foreseeable future, and that some individuals or their children may be so sick, infirm or disabled that MPP participation is not possible. Further, the

commentator said that while an SSDI/SSI application or appeal is pending, the recipient should be encouraged to seek treatment for his condition, but not required to participate in a work project, since working may be inconsistent with the disability application; on the other hand, an individual who wishes to engage in work activities or training should be given the opportunity to do so, despite disability.

Response: The Department has reorganized the regulations, created more sections and provided more details regarding WCA, MPP and WPP and the eligibility requirements. In response to the comment, the Department submits that it has clearly defined the WCA, MPP and WPP. MPP for Extended TANF recipients is the same as MPP for individuals receiving Time-Out benefits. The distinction is that individuals who enrolled in MPP before implementation of this rulemaking had or are in the process of obtaining an MPP assessment. Individuals who enrolled in MPP before Extended TANF are grandfathered into MPP without a WCA. With the implementation of this rulemaking, individuals who enroll in MPP for the first time in Extended TANF will receive a WCA before the development of their individual MPP service plans.

Section 141.54 describes who is required to obtain a WCA, what is involved, the purpose and scope and the standards applied. The WCA will include an evaluation of existing documentation and consideration of available opinions of treating physicians.

In conducting the WCA, physicians and psychologists will use accepted medical standards in assessing medical conditions and functional limitations. The WCA or MPP assessment will promote self-sufficiency by identifying medical conditions, functional limitations and good cause situations that may preclude or limit the adult's compliance with RESET. It will also identify the range of the adult's ability to engage in work and work-related activities. The findings and recommendations of the WCA will be provided to the MPP team. The MPP team is composed of professionals from various disciplines. The MPP team will use the information and recommendations from the WCA or MPP assessment to develop an individualized service plan.

With regard to the question concerning pregnant women and young mothers, if they otherwise qualify for MPP under § 141.54, they will be allowed to participate in MPP. In fact, they will be required to do so. In that event, their circumstances will be taken into account in developing the individualized MPP service plan. Although there is no standard for exemption from MPP, the MPP team will consider individual circumstances in formulating the MPP service plan.

A parent caring for a child under the age of 12 months, who has not exhausted the lifetime limit on exemption from RESET on that basis, will have referral to MPP or WPP deferred under § 141.56. That section also provides for referral to be deferred in other circumstances.

Examples of functional limitations are: inability to stand more than a certain number of hours, inability to lift more than a certain amount of weight and limits in range of motion. Examples of good cause situations include unavailability of transportation, the need for the adult to be in the home to care for an ill or disabled family member, and unavailability of child care. Additional examples of good cause can be found in 55 Pa. Code § 165.52. Physicians and psychologists “approved by the Department” are those with whom the Department has a contract, directly or indirectly, or other agreement.

Individuals who are mandatory RESET participants will not have WCAs, as one commentator suggested, unless they have good cause for not participating in RESET. They cannot volunteer for MPP in lieu of meeting RESET participation requirements. Individuals in WPP will have a vocational assessment, not a WCA. WPP is not limited to one type of work or training; it will offer a range of work, work activities and training. WPP is designed to promote self-sufficiency by providing individuals with the combination of work experience and training that most research indicates is most productive and that is appropriate for the individual.

The Department agrees with the commentator's suggestion that connecting severely disabled adults with SSDI or SSI benefits is a goal of the Department. That goal is not limited to the MPP program. Individuals are required to seek Federal benefits for which they potentially qualify. (62 P.S. § 432.21(a)). The Department and its contractors assist individuals in the application for SSDI or SSI disability benefits through DAP. Protocols for referring individuals to DAP and providing them with assistance in the SSDI or SSI application and appeal process predate Extended TANF and have not been made part of this rulemaking.

The goal of Extended TANF is to engage individuals in work or approved work-related activities with reasonable accommodations as required. Towards that end, the MPP service plan is designed to increase an individual's movement towards self-sufficiency and will take into account varying individual circumstances such as illness or dependent family members. The Department recognizes there may be individuals whose personal or family conditions are not remediable in the foreseeable future; nevertheless, the goal is to engage those individuals in activities appropriate for their circumstances. The Department supports participation in work or approved work activities for SSI or SSDI applicants pending a decision on their eligibility for Federal benefits. The Department always encourages people to seek medical treatment pending award of SSDI/SSI benefits. An individual with an SSDI/SSI application or appeal pending is generally exempt from RESET.

The regulations provide procedural safeguards to individuals. An individual who disagrees with the findings or recommendations of the WCA can request a second opinion WCA under § 141.54(b)(4)(iii). In addition, any individual who receives notice from the CAO that the individual has failed to comply with any requirement of Extended TANF has appeal rights pursuant to 55 Pa. Code Chapter 275.

The Department has added provisions for special allowances, now found in § 141.57. Special allowances for supportive services are available to individuals in WPP and other RESET programs and activities, and for programs and activities that are part of an individual's MPP service plan or domestic violence services plan.

10. WPP as "workfare" or other unpaid work.

Comment: Commentators claimed that WPP is akin to "workfare." They contend that recipients should not be required to "work off" their welfare checks. They suggested that WPP offer "real wages" (such as paid work experience (PWE)) so recipients can benefit from the Earned Income Tax Credit (EITC) and Unemployment Compensation (UC), and other benefits, and meaningful, nonmenial work opportunities that will help them gain skills and training. Some commentators suggested that the

Department offer "real" employment and training options attached to the WCA and WPP. They claimed that this will give recipients a sense of control over their own destinies and career paths. They also suggested that the existing rapid attachment, retention and advancement program and work experience be available to individuals.

In addition, they argued that there will be no uniformity of work obligation, as the amount of unpaid work required will depend on the size of the welfare grant, which in turn depends on the size of the family and receipt of income from other sources that reduce the amount of the grant. They also asked whether the Department considers 55 Pa. Code § 166.21 (which they claimed uses antiquated procedures no longer applicable) still in effect, although the regulation has not been updated. They suggested that WPP offer training, wages, and other benefits of a real job, as with PWE.

Response: The Department agrees with the suggestion that existing rapid attachment, retention and advancement programs should be available in the Extended TANF program, with respect to certain working individuals. These programs are designed to increase the earning capacity of individuals who are employed. Section 141.55(a)(3) provides that an adult who is employed 20-29 hours per week in unsubsidized employment and who can participate in at least 30 hours of work and work-related activities can qualify for Extended TANF by participating in a job retention and advancement program. Those individuals are not required to participate in WPP.

To the extent commentators suggested that the Department create employment for Extended TANF recipients, the Department does not agree with this recommendation. The Public Welfare Code is clear that the Department is not required to develop or offer employment to assistance recipients. 62 P.S. § 405.3(d).

The Department disagrees with the commentators' characterization of WPP as "workfare." WPP offers a range of paid and unpaid work, work-related activities and training. The goal of WPP, as with all employment and training programs, is to move people to self-sufficiency. Paid employment is preferred over community service or unpaid work. 62 P.S. § 405.1(a.2)(1). In addition, WPP focuses on enhancing recipients' skills and earning ability so they can become self-sufficient. The 30-hour requirement of WPP may consist of a combination of paid and unpaid work and work-related activities such as literacy training, ESL classes, job and life skills training, vocational assessments and job search. Unpaid work that inures to the benefit of a third party, such as community service, is limited by the Fair Labor Standards Act, 29 U.S.C.A. §§ 201-219. Hours of unpaid work will be limited to the number of hours obtained by dividing the monthly assistance grant, less child support collected or any other reimbursement, by the minimum wage. This limit will vary with individual circumstances.

Finally, 55 Pa. Code § 166.21, relating to policies for the Community Work Experience Program (CWEP) and the Pennsylvania Employable Program (PEP), has been superseded by the RESET program. Provisions for the RESET program are found in 55 Pa. Code Chapter 165.

11. *Impact of regulations on homeless individuals and women with major barriers to employment, and potentially overwhelming increased demand on other agencies.*

Comment: Some commentators expressed concern about the impact of the regulations on homeless individuals and other women with major barriers to employment. They also expressed concern about the potentially overwhelming increased demand on other agencies to provide services if these individuals reach their welfare time limits and fall through the proposed safety net.

Response: The Department has added language to the regulations at §§ 141.54 and 141.56 to clarify that individuals with major barriers to employment, such as homelessness, if otherwise eligible, may receive Extended TANF.

It would be speculative for the Department to address the potential increased demands on other agencies; however, the Department believes that Extended TANF may result in some diminished demand on other agencies.

12. Monitoring efforts.

Comment: One commentator challenged the Department to be vigilant in monitoring: (1) how families are notified about Extended TANF; (2) how many families take advantage of Extended TANF; and (3) whether families encounter barriers with the more stringent work requirements standards of Extended TANF, and thus are refused or voluntarily withdraw from Extended TANF.

Response: The Department will notify families of the benefits and eligibility requirements for Extended TANF in notices mailed to all potentially eligible recipients. Notices are automated and sent to recipients who have received 57 months of TANF benefits. The Department will monitor the number of notices that are sent and to whom. In addition to the "3 Months Left" notice, families are given "Road To Self-sufficiency" pocket folders that contain client information sheets on various topics including child care, child support, Time-Out, employment and Extended TANF. The pocket folders or relevant information sheets, or both, are given to families at application, reapplication, AMR completion or other contact.

Families eligible for Extended TANF will be assigned a unique program status code that will be used by the Department to monitor how many families are receiving Extended TANF benefits.

Cases are closed and applications are withdrawn for a variety of reasons. As with TANF in the first 5 years, the Department will be able to identify those Extended TANF cases that are closed because the recipient failed to comply with work requirements without good cause. Individuals who have good cause for not meeting the work requirements of Extended TANF are not subject to sanction, as provided in § 141.55(c). When an individual chooses to voluntarily withdraw an application or discontinue benefits, the Department cannot track the reason the individual made that choice.

13. Flexibility.

Comment: Commentators stressed the need for flexibility regarding Extended TANF. One commentator suggested that the regulations do not maximize the Department's flexibility to provide Extended TANF to individuals who may not need to participate in WPP or MPP because their problems may be rectified by a job search or short-term recuperation period.

Response: The Department agrees with the commentators' statement that the regulations should allow flexibility in providing Extended TANF to eligible individuals who may not need to participate in WPP or MPP because their problems may be

rectified by a job search or short-term recuperation period. Section 141.55(a)(3) requires individuals who are working 20-29 hours per week to participate in a job retention and advancement program if they can participate in at least 30 hours of work and work-related activities.

Further, the Department added § 141.56 (relating to Deferred Referral) to temporarily defer referral to MPP, WPP or other employment and training program for certain individuals including those who establish good cause for not complying with RESET requirements. Under this section, individuals may be eligible for Extended TANF for up to 90 days before they are subject to a partial redetermination and possible referral to a program such as MPP or WPP. The 90-day deferral period provides the individual time to remediate a short-term barrier to employment so that an appropriate referral can be made, if necessary. At redetermination, the CAO will review the good cause situation and either extend the deferral period for 90 additional days or make the appropriate referral.

14. *Other TANF policies and future rulemaking.*

Comment: One commentator suggested the full TANF program and policies, including future rulemaking concerning domestic violence and other TANF policies and programs should be incorporated as a single final-form regulation to allow comprehensive review of the program.

Response: The Department does not agree with the commentator's suggestion that the full TANF program, with all current TANF policies and future rulemaking concerning domestic violence, should be incorporated as a single, final-form regulation. Given the discrete nature of the Extended TANF rulemaking, the Department did not combine it with the rulemaking for the basic TANF program. The Department determined that the best course of action is to first implement the basic TANF rulemaking. The basic TANF program is the essential framework upon which the Department will build. The Extended TANF program is the first addition to that framework. As previously noted in the response to comment 3, the Department continues to work with advocates to expand the policies for domestic violence that go beyond what has been established in the basic TANF rulemaking as well as the Extended TANF program.

15. *Need for clear statement in regulations that ALL clients are eligible for Extended TANF.*

Comment: Commentators suggested that the regulations clearly state that all clients are eligible for Extended TANF. They expressed concern that some clients will be displaced or permanently terminated from the welfare rolls during the transition period from TANF to Extended TANF. Also, they suggested that the steps a client must follow to get Extended TANF must be clearly explained.

Response: The Department disagrees with the commentators' suggestion that the regulations should clearly state that all clients are eligible for Extended TANF. Instead, upon publication of this rulemaking, adults who have received 60 months of TANF will be required to comply with the eligibility requirements for Extended TANF to remain eligible. It is true that during the Extended TANF contingency period that began March 3, 2002 and continues until promulgation of Extended TANF regulations, clients who are otherwise eligible for TANF continue to receive cash assistance subject to the requirements of the TANF program. Following promulgation of these regulations, however, eligibility for Extended TANF will be determined on an individual basis at application and, for recipients, during a partial review of eligibility. At this review, the caseworker will explain the requirements of the Extended TANF program.

16. Miscellaneous procedural issues.

Comment: Commentators suggested that the Department "take its time" implementing Extended TANF and training its caseworkers regarding these benefits. They noted that recipients should be entitled to the full scope of appeal and fair hearing rights, and that the regulations reflect this. They also suggested that the "sanction review process"/compliance review process be utilized and referenced in the regulations, as well as provision for good cause. One commentator suggested that

§ 141.51(b) be revised to include references to the compliance review and good cause provisions. In addition, they urged the Department to continue the Community Connections initiative, which would help ensure smooth transition from TANF to Extended TANF. They said these processes would help ensure that individuals are not inappropriately sanctioned.

Response: The Department agrees with the commentators' suggestion that development of Extended TANF merits time and attention and that training of staff is a critical component in the process. The Department is currently developing training and instructional materials regarding Extended TANF; once completed, training will be provided to all Department staff involved in the delivery of Extended TANF.

The Department also agrees with the commentators' suggestion that recipients are entitled to the full scope of appeal and fair hearing rights; § 141.58 clarifies that an individual has the right to appeal and a fair hearing under Chapter 275. The Department has also added cross-references to the compliance review and good cause sections of the basic TANF regulations in § 141.55(c). Both the good cause provisions of § 165.52 and the compliance review procedures under § 165.51 equally apply to Extended TANF.

The Department appreciates the commentators' observation that the Community Connections Initiative (CCI) has been beneficial to TANF recipients. The Department has reauthorized the CCI grants for fiscal year 2002-2003 to continue providing recipients with additional support in their movement toward self-sufficiency.

17. Unidentified barriers to employment.

Comment: Commentators expressed concern that some recipients will be ineligible or sanctioned if the WCA (or vocational assessment) does not identify a barrier to employment for 30 hours per week.

Response: The WCA and vocational assessment are designed to be diagnostic tools and are not intended to be entrance requirements to the Extended TANF program. Even if the WCA or vocational assessment does not identify a barrier to employment, an individual who cannot comply with the 30-hour requirement may establish good cause for noncompliance.

18. Adequacy and funding of MPP.

Comment: Commentators questioned whether MPP will offer a sufficient number of slots for willing individuals. They suggested that the Department commit to adequately fund MPP to maximize its potential to diagnose, rehabilitate and educate recipients who can work, and find appropriate long-term support or programs for those who cannot work.

Response: The Department agrees with the commentators' statement that MPP is an important program and adequate funding maximizes its potential. The Department plans to provide a sufficient number of MPP slots given the availability of funds.

19. Benefits for working individuals.

Comment: One commentator suggested that working TANF recipients should be eligible for Extended TANF. One commentator suggested that allowances be made for heads of households who have been working all along but whose family size is such that they continue to require assistance. Another commentator said that the regulations do not adequately address the needs of families who are working, but due to low

wages, large family size or limited available work hours, require ongoing cash assistance to meet their family's basic needs. The commentator suggested that these individuals work in existing Job Retention, Advancement and Rapid Re-Employment (JRARRE) to get needed help to move up the job ladder, and not be required to perform community service for no wages to maintain their TANF supplement. The commentator also suggested that it is in everyone's interest to assist these Extended TANF participants to use their time to pursue educational and training opportunities that will enhance their employability.

Response: The Department agrees that working TANF recipients should be eligible to receive TANF. The Department also agrees that needy working individuals who have large families or low earnings in relation to family size should be able to qualify for Extended TANF. Section 141.55(a)(1) provides that individuals who are working 30 or more hours per week may be eligible for Extended TANF with no additional work or work activity required. Further, § 141.55(a)(3) provides that individuals working 20 to 29 hours per week, if they can participate in at least 30 hours of work and work-related activities, are referred to a job retention and advancement program to advance their job skills and increase their hours and earnings. Other provisions relevant to mandatory RESET participants are set forth in § 141.55.

The Department also agrees with the commentators' suggestion that individuals in Extended TANF who are working should be assisted in pursuing education and training opportunities that will enhance their employability. Individuals in Extended TANF who are working more than 30 hours per week may volunteer to participate in education and training activities. Such activities may be supported with special allowances, as specified in § 141.57. Individuals who are working 20 to 29 hours per week will participate in a job retention and advancement program designed to enhance their earning capacity.

20. Grievance procedure.

Comment: One commentator suggested that the regulations establish a grievance procedure for workers alleging displacement by welfare recipients. The commentator noted that Federal law requires such a procedure. They claimed that a grievance mechanism is especially important if work requirements are increased and workfare is instituted or expanded.

Response: The Department disagrees that a grievance procedure must be set forth in the regulations. Instead, the Department requires its employment and training contractors to develop a Work Site Agreement, which requires an assurance that the

work site will not displace its regular workforce with welfare recipients. Displacement includes loss of employment and reduction of overtime, wages or benefits. Further, the work site may not substitute work experience participants for individuals on layoff from the same or substantially equivalent positions. Individuals alleging displacement by a welfare recipient may contact the Department of Public Welfare's Bureau of Employment and Training Programs.

21. Work requirement as a condition of eligibility.

Comment: One commentator said that the work requirement should not be stated as a condition of eligibility. The commentator asked the Department to state the specific statutory authority for stating the work requirement as a condition of eligibility.

Response: Although the 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 a loss of benefits. 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 with the commentator that a review of eligibility is all that is required. Section 141.55 is consistent with 62 P.S. §§ 405.1(a.2)(6) and 432.3(a). Under these provisions, an

individual who has received assistance for 24 months and is not exempt from RESET must participate for an average of at least 20 hours per week in one or more of the activities enumerated in that paragraph; if he willfully fails to do so, without good cause, he is ineligible for cash assistance under 62 P.S. § 432.3(a) (relating to durational sanctions).

22. Redetermining eligibility.

Comment: One commentator stated that the subtitle of Chapter 133 does not include Extended TANF, and suggested that it be revised as follows: "REDETERMINING ELIGIBILITY PROVISION FOR TANF, EXTENDED TANF AND GA." The commentator also said that it is unclear what a "complete redetermination" is, and whether this applies to recipients who have recently gone through a redetermination for another reason.

Response: The Department agrees with the commentator's suggestion and has revised the subtitle accordingly. In response to the question regarding what is meant by a complete redetermination, § 133.23(a)(1)(i) provides that a complete redetermination is a comprehensive review of eligibility factors that are subject to change, such as income, household composition, resources and employability status. A complete redetermination generally requires a face-to-face interview.

The Department has reevaluated its decision to require a complete redetermination of eligibility and has determined that a partial review of eligibility is sufficient. Section 133.23(b) (relating to partial redetermination) has been revised to reflect this decision. The partial redetermination will focus on factors specific to the Extended TANF program, even if the recipient recently had a redetermination for another reason.

23. Definitions. (§ 141.52)

Comment: One commentator stated that program requirements, to be enforceable, must be placed in the body of the regulation, not described in definitions. For example, the commentator said that the definition of WCA (Work Capacity Assessment) contains substantive language; therefore, subparagraphs (i) through (iv) should be moved to § 141.51. The commentator also advised that the definitions section be relocated to precede the provisions where the terms appear. Further, the commentator suggested that the scope of the definitions in § 141.52 should apply to all relevant chapters or sections, not just §§ 141.52 and 141.41. Also, the commentator said that the definition of "adult" in § 141.52 is confusing and should be rewritten, perhaps by splitting the definition into two paragraphs: (i) for an individual 19 years of age or older, and (ii) for an individual 18 years of age who is not a full-time student in secondary school, vocational training or technical school. Finally, the commentator

stated that the phrase “within the constraints of available funds” does not belong in the definition of RESET (Road to Economic Self-Sufficiency Through Employment and Training), and should be moved to a provision establishing the parameters and requirements for RESET. The commentator reasoned that because funding availability directly impacts on eligibility requirements for the program and the services offered, it is a substantive provision, which is not enforceable where it is located.

Response: The Department agrees with the commentator’s suggestion that program requirements should appear in the body of the regulations, rather than be described in definitions. Therefore, the Department has relocated and reorganized substantive requirements for Extended TANF so that all substantive requirements are in the body of the regulations. For example, revised substantive requirements for the WCA now appear in § 141.54 (relating to Maximizing Participation Project). The Department also revised the definition of RESET by simply cross-referencing the definition of RESET set forth in § 165.2. In addition, the Department agrees that the definitions should precede the provisions where the terms appear. As revised, the definitions in § 141.52 precede the substantive provisions (§§ 141.53 through 141.57) where the terms appear.

The Department also agrees that the scope of the definitions in § 141.52 should apply to relevant chapters and sections. As such, the Department has revised § 141.52 to state that “[t]he following words and terms, when used in this Chapter, have the following meanings, unless the context clearly indicates otherwise . . .” In addition, the Department has revised § 133.23 by including a cross-reference to the definition of Extended TANF in § 141.52. Finally, the Department does not agree that the definition of “adult” should be revised. The definition of adult in § 141.52 is consistent with the definition of adult in § 151.42. That definition is particularly relevant to employment and training programs. That definition is designed to distinguish between 18 year olds who are and those who are not subject to work requirements.

24. Potential sources of income. (§§ 141.21(n)(1)(iii), 183.13, 183.13(c)(3))

Comment: One commentator noted that § 183.13(c)(3) excludes the applicant’s family from eligibility until the applicant complies, while the identical requirement in § 141.21(n)(1)(iii) excludes both the applicant and the applicant’s family from eligibility. The commentator questioned whether § 183.13(c)(3) should also exclude the applicant from eligibility.

Response: In response to the commentator's question whether § 183.13(c)(3) should exclude the applicant from eligibility, the answer is yes. Section 183.13(c)(3) has been revised accordingly.

25. WCA procedures and protections. (§§ 141.51(a)(2) and 141.52)

Comment: One commentator claimed that the WCA fails to include procedural protections; the commentator also said the regulations do not include protections for families with disabled family members. The commentator recommended that the regulations should require that the examining physician must have particular expertise in functional or vocational limitations. The commentator also expressed concern that the regulations do not require that the examining physician must have expertise in the appropriate specialty (for example, psychiatrist for recipients with mental disorders). Moreover, the commentator questioned the role of the WCA examiner vis-à-vis the recipient's primary care physician who verified disability with an Employability Assessment Form. Even if the appropriate physician is obtained, the commentator asked whether that physician, recipient or representative will be authorized to request further testing, under what circumstances, to whom such requests are made and how quickly they must do so. The commentator asked why the Department is silent in the regulations on the role of the treating physician, in contrast with the Social Security Administration, which relies heavily on treating sources, and affords the evidence of such sources great weight.

In addition, the commentator questioned why the regulations state that “[t]he WCA will always include an evaluation of existing documentation of the good cause situation.” The commentator said that this raises several questions: (1) is this a drafting error or is existing documentation relevant only in good cause cases? Disability is typically the basis for an exemption, not a good cause situation; (2) what does “existing” documentation mean? Does it mean that only information already in the file will be considered, or does it mean that any documents that exist anywhere will be obtained and reviewed? If it is the latter, who will obtain the documents? The commentator stated that it would be inappropriate to require those suffering from mental illness, which they estimate to be at least 28% of the exempt population, to gather the information. The commentator suggested that these matters be clarified in the regulations.

The commentator also questioned why the regulations are silent about a recipient’s right to voice disagreement with the WCA decision and request a second opinion, the procedures for doing so and what is to be done when a second opinion is obtained. The commentator asked which opinion controls when the first and second opinions conflict, and whether the only way to challenge a first opinion is with a second opinion.

The commentator suggested that the regulations clarify how to resolve disputes, which evaluation and opinion controls, and whether the recipient may challenge the first and second opinions and have the treating physician offer an opinion (although not retained as part of the WCA). In addition, the commentator asked the Department to clarify what happens if the WCA physician decides that the answer for a recipient's back problem is physical therapy, but the treating physician thinks that would be too dangerous because of the recipient's heart condition. The commentator also asked what happens if the Medicaid HMO refuses to pay for the treatment, or the treating physician will not request it—who then decides? Is the question referred to the MPP team, which does not appear to have medical expertise at its disposal?

Response: The Department disagrees with the commentator's concern that the WCA does not include procedural protections. Instead, the Department submits that the WCA does include appropriate procedural protections described in § 141.54 (relating to MPP). These protections include the opportunity to request a second opinion WCA and provide information from the individual's treating physician. The Department will contract with an independent medical services provider to conduct ongoing random reviews of the WCA summary results, described under Paperwork Requirements below.

The Department agrees with the commentator's suggestion that protections for families with disabled family members should be included in the regulations. Therefore, the Department has added a new provision clarifying that families with disabled members may be eligible for Extended TANF under § 141.54 and § 141.56 (relating to deferred referral).

The Department agrees that the examining physicians should have relevant expertise in the appropriate specialty. The Department disagrees that this should be specified in the regulations. In its contracts, the Department already requires providers to recruit and maintain qualified physicians and psychologists in the appropriate specialties and geographical areas to meet the demand for WCAs.

In response to the commentator's question regarding the role of the WCA examiner vis-à-vis the recipient's primary care physician and the weighting of the evidence, there is no weighting of the evidence. During the WCA, all records are given equal consideration, unless there is a clear delineation of training, certification and expertise between the treating physician and specialist. The only way to challenge the results of the first WCA is to request a second WCA.

In answer to the commentator's question about whether the treating physician or recipient may request further testing, the answer is yes, but not as part of the WCA. The results of any additional testing may be provided during the WCA or, if requested, during the second WCA. However, with respect to the recipient's representative requesting further testing, the answer is no.

In response to the commentator's question whether the evaluation of existing documentation is relevant only in good cause cases, the answer is no. The WCA will include an evaluation of existing documentation for medical conditions and functional limitations, as specified in § 141.54(b)(3)(i)(B).

With respect to the commentator's questions concerning the definition of "existing" documentation, existing documentation refers to any information that would be relevant to making a determination of the extent of an individual's medical condition, functional limitation or good cause situation. With regard to who will obtain the documents, documentation shall be obtained by the individual and provided to the provider during the WCA process. When necessary, the Department or its agent will assist the individual in obtaining existing documentation, as specified in § 141.54(b)(3)(iii)(A).

The Department agrees with the commentator that regulations should include provisions for a second opinion WCA for individuals who disagree with the findings of the WCA as set forth in the MPP service plan. Therefore, § 141.54(b)(4)(iii) provides for a second opinion WCA. The MPP team, in consultation with the individual, will develop an MPP service plan based on information contained in one or both sets of the WCA findings and recommendations.

In answer to the commentator's question regarding the resolution of conflicting WCA opinions, the Department responds as follows: When reviewing the results of conflicting WCAs, it may become apparent that one opinion is based on additional or more relevant information. If this is the case, the MPP team will consider the additional information, when developing the MPP service plan.

Other factors the MPP team may consider depending on the individual circumstances will include the extent to which the WCAs agree with the recommendations of the treating physician, the degree to which the WCAs are congruent with the non-clinical findings of the MPP team and the ability of the medical services agency to resolve the conflict through its quality control process. The Department notes that, in any case, the WCAs serve to inform the MPP team's development of the MPP service plan but are not determinative of the outcome of the MPP process.

In response to the suggestion that the regulations clarify procedures regarding disputes between the WCA and the treating physician and the resolution of HMO denials of payment for recommended services, the Department disagrees that the specifics of these procedures must be regulated. If the WCA physician recommends a treatment with which the treating physician disagrees, the following procedures apply: When the MPP team receives the WCA results, it will contact the Managed Care Organization's (MCO) Special Needs Coordinator. The MCO Coordinator will contact the individual's Primary Care Physician (PCP) to discuss the results and recommendations to assure that the PCP has all the information necessary regarding the WCA results and recommendations. If necessary, the MCO Coordinator will obtain further clarification and provide it to the PCP in order to support the WCA recommendation. The PCP can recommend that the individual request a second WCA and submit additional documentation supporting its finding during the second WCA.

If the recommendations are beyond the PCP's area of expertise, the MCO Coordinator will intervene to assist the individual in obtaining the necessary expert. For example, if the PCP is a general practitioner and the barrier being addressed is a mental health barrier, the MCO Coordinator will facilitate an evaluation by a mental health provider. When the MCO refuses to cover the services identified as necessary medical services by the MPP team, the MPP team will encourage the individual to appeal. During the MCO appeal period, the services will be provided.

For individuals who are covered under the Fee for Service health care plan, the same process applies, except that the MPP coordinator will work with the designated contact person in the Department's Office of Medical Assistance Programs rather than the MCO Coordinator.

With regard to the concern that the Department has not included in the regulations all the procedures related to the MPP program and the WCA, the Department has regulated many components of MPP and the WCA, as identified above. They include:

- the opportunity to request a second WCA;
- the opportunity to present information from the treating physician;
- the evaluation of existing documentation regarding medical conditions and functional limitations; and
- the clarification of who has responsibility for obtaining documentation.

The Department will not regulate terms of the contract or procedures used by the medical service agency nor will the Department regulate internal procedures applicable to County Assistance Office staff.

26. WCA standard for determining medical condition, functional limitation or good cause situation that precludes the individual from meeting work requirements.
(§§ 141.51(a)(2), 141.52)

Comment: One commentator expressed concern that the process the Department has chosen for determining an individual's ability to meet work requirements is potentially more adversarial than the current process for verifying exemptions from work requirements. The commentator contended that the standard for determining disability, as stated in the definition of WCA (§ 141.52(i) and (ii)) is: (1) unintelligible, (2) based on the Guides to the Evaluation of Permanent Impairment (Guides), which deals only with permanent impairments; temporary disability must also be addressed, (3) the Guides, as stated on page 9 of the Guides, is not intended to be used for direct estimates of work disability; and (4) does not specify at what level a recipient is considered unable to work. The commentator argued that the Department's intended practice of leaving the decision of disability to the companies that successfully bid on the WCA contract, using the criteria in the Guides, is an unacceptable delegation of executive power to private entities that have no mechanism for public input. The commentator also stated that because the standard of disability affects who goes to MPP, who must comply with WPP, and who would be sanctioned for failure to comply, the standard that is used will have serious implications for those being evaluated. The

commentator expressed concern that individuals whose level of disability falls below a benchmark would be required to work 30 hours per week. The commentator suggested that the Department adopt a clear-cut standard of temporary and permanent disability, using a rating of 50% or greater as a benchmark.

Response: The Department disagrees with the commentator's assertion that the process for determining an individual's ability to meet work requirements is potentially more adversarial than the current process for verifying exemptions from work requirements. Under TANF rules, the individual's treating physician initially determines the individual's exemption from RESET under § 165.22(b)(1). Under Extended TANF, the WCA is an objective evaluation of an individual's impairment, if any, and the impact of that impairment on the ability to work. It is not intended to be an adversarial process. Instead, it is designed to provide a fresh, independent evaluation of medical conditions, functional limitations and good cause situations that may preclude or limit the individual's ability to work.

The Department also disagrees with the commentator's criticism regarding the appropriateness of using the Guides to determine a temporary disability. In fact, the Guides is appropriate to the evaluation of temporary disabilities. In conducting the WCA, the Guides is the tool physicians and psychologists will use to perform the WCA

to evaluate the severity of impairments. The Guides is not intended to be used in a rigid, mechanical manner. Meaningful use of the Guides requires a great deal of professional judgment and consideration of non-medical factors that may affect permanent or temporary impairment. The Guides provides objective standards for evaluating the nature and extent of impairments. Using the Guides, the evaluating physician or psychologist will consider whether an impairment is likely to be permanent despite treatment. The physician or psychologist also will evaluate whether the impairment may improve with medical treatment. Although the Guides enables medical professionals to evaluate impairments objectively, it is merely a tool. As the Guides itself explains, it cannot provide complete and definitive answers regarding employability. "The impairment evaluation . . . is only one aspect of disability determination. A disability determination also includes information about the individual's skills, education, job history, adaptability, age, and environment requirements and modifications (footnote omitted). Assessing these factors can provide a more realistic picture of the effects of the impairment on the ability to perform complex work and social activities." Guides, 5th ed. at 8.

To arrive at the recommendations in the WCA, physicians and psychologists will use their clinical expertise to consider each individual on a case-by-case basis. The WCA provides additional objective data to be considered in combination with other available information and is considered by the MPP team during the development of the MPP service plan. Verifying the presence and severity of an impairment is but one component taken into consideration by the MPP team for the development of an MPP service plan. Because the WCA informs, rather than controls, the MPP team in developing the MPP service plan, the Department finds that the Guides provides a legitimate and useful point of reference in the evaluation of temporary and permanent impairments.

The Department emphasizes that the final-form rulemaking reflects a substantial revision from proposed rulemaking. Those revisions include provisions in § 141.56 to defer referral to MPP for certain caretakers and persons with good cause for not meeting RESET participation requirements. Not all individuals with a temporary condition that precludes employment will be referred directly to MPP. An individual who is not exempt from RESET but has a temporary condition that precludes employment may establish good cause and have referral to MPP deferred under § 141.56(a)(2). For example, a person whose job requires standing for prolonged periods may have good

cause for not working if he has a broken leg. The CAO will re-evaluate the individual's deferral after 90 days or when circumstances change. Consequently, under the final-form regulations, an individual with a short-term condition might never be referred to MPP.

As to the commentator's assertion that using the criteria in the Guides is an unacceptable delegation of executive power, the Department disagrees. The Department has not delegated the authority to determine eligibility for Extended TANF to medical service providers conducting WCAs. Rather, the Department has contracted with medical experts to perform just the WCA. Although this assessment is important in developing an individual's MPP service plan, it is not determinative of eligibility for Extended TANF. The CAO determines whether an individual qualifies for Extended TANF.

The Department agrees with the commentator's assessment that the Guides is not intended to be used for direct estimates of work disability. Determination of disability is a result of consideration of numerous factors, as discussed above. The physician's or psychologist's evaluation using the Guides is just one of those factors.

Finally, the Department disagrees with the commentator's recommendation that the Department adopt a 50% standard to determine disability. The Department finds that such a bright-line classification is less favorable to clients served in the MPP program. The result of the WCA will be used by the MPP team to develop an individualized service plan that is not dependent solely on impairment percentages.

27. *Procedures for families with disabled family members. (§§ 141.51(a)(2))*

Comment: One commentator claimed that the regulations have no mechanism for evaluating and assisting families with a member who is severely disabled. For example, the commentator cited the example of a child who is severely mentally retarded and cannot be left alone because of numerous medical, educational, behavioral and child care problems involved. The commentator complained that the WCA, as written, is not designed to evaluate and assist in such situations. Moreover, the commentator explained that neither a physician nor a psychologist performing the WCA will necessarily be steeped in the availability of child care for a disabled child, and that the extent of physician input in these cases is unclear; if physician input is sought, the regulations do not clarify who is to decide and based upon what standard. The commentator noted that the regulations state only that the WCA may or may not require examination of the client; the regulations say nothing about examination of a child or

other disabled family member. In addition, the commentator suggested that the regulations are unclear regarding evaluation of social factors and good cause situations and whether the physician's evaluation of the situation is followed by one conducted by welfare personnel, especially if the evidence given is not medical or psychological in nature. The commentator argued that physicians and psychologists do not have any special expertise in vocational or even functional evaluations.

Response: The Department disagrees with the commentator's claim that the regulations have no mechanism for evaluating and assisting families with a member who is severely disabled. In the proposed regulations, individuals in this circumstance would have been eligible under § 141.51(a)(2)(i). The final-form regulations provide that individuals with a disabled family member may be eligible to receive Extended TANF under § 141.56. After 90 days, the individual's situation will be reviewed. If the situation continues to preclude employment or participation with RESET, the individual may be referred to MPP as specified in § 141.56(c)(1). While in MPP, the individual will be required to cooperate with the WCA, but the disabled family member is not subject to a medical examination. The WCA and the MPP team will consider available medical records and other documentation of this disabled family member. The WCA will provide the MPP team with summary results and recommendations for the individual based on

the documentation provided by the CAO and the individual. The MPP team, including vocational and behavioral rehabilitation specialists, in consultation with the client, will develop the MPP service plan to help the individual who is caring for a disabled family member address this barrier. The MPP team, based on knowledge of available child and adult day care and other community resources, will explore these options in developing the MPP service plan.

28. Procedures for those with other (not involving disability) employment barriers.
(§§ 141.51(a)(2), 141.52)

Comment: One commentator claimed that the procedures are deficient for persons with other barriers to employment; for example, a barrier not involving disability. For example, the commentator contended that the regulations, read literally, require an individual exempt from WPP with a barrier to employment such as lack of child care for child under age 6 (proposed § 141.51(a)(2)(i)(B)) must cooperate with a WCA under § 141.51(a)(2)(ii). The commentator argued that this does not comport with the Department's alleged statement to the commentator that the Department does not intend to use physicians for such determinations, but the regulations do not state when physicians will and will not be used. The commentator argued that, read literally, the regulations indicate that physicians are to be used in all cases and charged with making

all final decisions. Likewise, the commentator claimed that it is unclear whether a physician or psychologist will evaluate multiple barriers to employment and their combined effect. They questioned if MPP will have the resources and regulatory authority to offer remedies that address these needs.

Response: The procedures set forth in the final-form regulations for persons with other barriers to employment are sufficient. For example, § 141.54(c)(3)(i)(C) specifies that an examination of an individual with good cause will be required only when it is necessary and relevant to the determination of the good cause situation. The MPP team, which may include vocational and behavioral rehabilitation specialists, will consider the results of the WCA in developing the MPP service plan.

Physicians and psychologists will evaluate multiple barriers to employment and their combined effect. Regarding regulatory authority and funding for MPP, the Department considers MPP a high priority; therefore, the Department has made sufficient provision for anticipated need for MPP in State Fiscal Year 2002-2003. To the extent that funding for MPP is available, the Department expects that MPP will continue to be a high priority. This rulemaking illustrates that MPP is an important component of Extended TANF. Section 141.54 authorizes the MPP team to develop service plans intended to address the needs of MPP participants.

29. Vocational assessments. (§ 141.52)

Comment: One commentator suggested that the regulations are unclear regarding vocational assessments for those assigned to WPP. Although the commentator supported the idea of an assessment prior to work assignment, the definitions of assessment and the WPP were criticized as lacking. For example, the commentator said the regulations are silent as to who will perform the assessment and how the recipient's input will be obtained, despite the express command of the Legislature, 62 P.S. § 405.1(a.2)(4), to involve the recipient in the process of assessment. The commentator also said that assessment is a complex task that should involve measuring literacy or numeracy and other factors for which the regulations do not provide. Further, the commentator submitted that the regulations do not state how any of the factors mentioned will be measured, including mental and physical disabilities, even though the ADA requires consideration of disability. The commentator maintained that even if a person is not fully disabled so as to preclude all employment, the ADA and good public policy require assessment of known disabilities that may affect an individual's ability to perform particular work, health and safety and the need for reasonable accommodation. Finally, the commentator suggested that such assessments be reduced to written form so they can be reviewed, corrected or augmented by recipients.

Response: The vocational assessment is defined at § 141.52 and addresses the factors enumerated by the commentator. The individual participates in the vocational assessment performed by an employment and training contractor, as specified in § 141.55(b)(1). The Department intends to contract with the Work Force Investment Areas to implement WPP. The contractors will perform vocational assessments based on industry standards. Industry standards include protocols grouped into two broad classifications: testing and workplace assessment. Testing measures literacy and numeracy skills, interests and vocational aptitudes as well as other skills. Workplace assessment consists of observation of the individual in a real-world work environment to address issues like punctuality, adherence to work rules, interaction with supervisors and co-workers, communications skills and others. The results of the vocational assessment are evaluated in light of the needs of the local labor market.

Section 141.55(b)(4) provides for reasonable accommodations of program rules and requirements to be made in accordance with the ADA. With respect to the commentator's concern that the results of the assessment be reduced to written form, the contractor will review the results of the assessment with the individual and provide written copies of each of the various assessments upon request.

30. Design of WPP. (§ 141.52)

Comment: One commentator claimed that the regulations say virtually nothing about the design and operation of WPP; for example, what work sites will be available, how the 30 hours of work and work activity will be structured, the level of participation ultimately selected and whether the recipient selects the activity or is assigned to existing activities or a prepackaged program. The commentator urged the Department to design WPP to address individual barriers in close consultation with recipients so that individual needs and limitations are accommodated and addressed. The commentator contended that nothing in the regulations speaks to choosing the mix of work and work-related activities that will comprise the WPP assignment, nor did the regulation address how a recipient may have input or voice disagreement regarding proposed activities.

In addition, the commentator suggested that the Department offer existing work opportunity programs such as work experience as part of WPP; the commentator also objected to the Department's unpromulgated policy to limit work experience to 6 months in an individual's lifetime, and argued this policy is inflexible, unwise, legally unauthorized, illegal and relegates all recipients to a costly and ineffectual workfare option.

Another concern the commentator expressed is that finding and scheduling WPP activities should be done in a way that does not interfere with a recipient's current employment, and this should be the highest priority. The commentator suggested that those with existing employment should be in a separate program, given that their needs and time constraints are so different from those of other recipients. According to the commentator, those recipients need a program to give them the skills and support to continue to make progress, not one to give them an intensive work experience. The commentator also suggested that the Department address the interplay between Job Retention, Advancement and Rapid Re-Employment (JRARRE) and Extended TANF to avoid confusion and conflicting obligations, especially since the Department generally precludes participation in more than one welfare program at the same time.

Response: The Department expects that § 141.55 in the final-form rulemaking will satisfy the commentator's concern that the regulations are too vague regarding WPP. Section 141.55 specifies the requirements for mandatory RESET participants and for WPP. For example, individuals employed in unsubsidized employment 30 or more hours per week may receive Extended TANF without any additional work or work-related activity requirements as specified in § 141.55(a)(1). Individuals participating in an employment and training program approved on an AMR while the individual was receiving TANF may continue that program, as specified in § 141.55(a)(2).

WPP is not limited to one type of work or training; it will offer a range of work, work-related activities and training. WPP is intended to promote self-sufficiency by providing individuals with the combination of work experience and training that most research indicates is most productive. The activities available in WPP may include work experience. However, the Department did not adopt the commentator's suggestion to extend work experience beyond 6 months in the person's lifetime. The Department interprets 62 P.S. § 402 as limiting work experience to 6 months in the person's lifetime, unless ADA accommodations are needed. Accordingly, §§ 165.31(b)(7) and (8) and (c)(3) reflect this interpretation. The Department's interpretation is neither unwise or illegal, nor does it relegate recipients to workfare. At the end of the 6-month period, other work and work-related activities are available.

The nature and extent of an individual's work and work-related activities depends on his needs, abilities, limitations and available work sites. Consequently, the Department cannot specify the nature and extent of these varying activities and work sites in these regulations.

An individual's input regarding the activities in WPP will always be considered but is not dispositive. As specified in § 141.58 (relating to appeal rights), an individual may appeal the denial or termination of Extended TANF under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

In response to the commentator's concern that finding and scheduling WPP activities should be done in a way that does not interfere with a recipient's current employment, the Department agrees. WPP work or work-related activities are scheduled to not interfere with an individual's unsubsidized work hours. Before and after 60 months of TANF, unsubsidized employment is preferred. Individuals who are working 20 to 29 hours, if they can participate in at least 30 hours of work and work-related activities, must maintain employment and participate in a job retention and advancement program, as specified in § 141.55(a)(3). Employed individuals who establish good cause for not participating in at least 30 hours of work and work-related activities, but can comply with RESET, must maintain employment and are referred to WPP to address the good cause situation, as specified in § 141.55(a)(6). Additional provisions for mandatory RESET participants are set forth in § 141.55.

FISCAL IMPACT

Commonwealth: The estimated cost in TANF Federal funds for 2002-2003 is \$7.577 million.

Public Sector: No other government entity will incur any costs or realize any savings.

Private Sector: No private sector entity will incur any costs or realize any savings.

PAPERWORK REQUIREMENTS

The following new forms were created for Extended TANF:

(WCA 1) – MPP Case Synopsis for Work Capacity Assessment Form – Provides narrative relating to recipient demographics and addresses hidden barriers and will include the MPP worker's observations. Used to compile information from the individual's CAO record and CIS screens and is provided to the WCA contractor as an introduction to the individual's TANF history.

(WCA 2) – Letter of Explanation and Request for Information Form – CAO letter provided to the individual's treating physician(s) explaining WCA and requesting the individual's medical records to be sent to the WCA contractor. This form also provides the treating physician(s) with the opportunity to become involved in the decision to authorize further diagnostic testing for the individual.

(WCA 3) – Professional Service Invoice for Photocopy Fees Form – Serves as an invoice for reimbursement for costs incurred with the photocopying of the individual's medical records by the treating physician(s).

(WCA 4) – Work Capacity Assessment Transmittal Form – Two-part form used to record information about the MPP client from the CAO case record and then provided to the WCA contractor as an introduction of the individual's case information. The WCA contractor uses the form to document information and to capture information that will be data entered in the Automated Information Management System (AIMS).

(WCA 5) -- Work Capacity Assessment Summary Results Form – Completed by the WCA contractor upon completion of the WCA. The contractor submits to the MPP team the WCA summary results along with supporting documentation received from the individual's physician, results of the medical assessment and any other testing.

(PA 1724) – MPP Enrollment Form – Completed by the MPP Worker or MPP Case Manager for each individual enrolled in MPP.

(PA 1718) – MPP Medical and Social History Form – Completed in a private face-to-face interview between the MPP Worker or MPP Case Manager and the individual. Used to help identify possible barriers and is intended to help the MPP Worker or MPP Case Manager, the MPP Team and the individual in developing an appropriate Service Plan.

(PA 1725) – TANF Work Activity Summary Form – Used to help the MPP worker or MPP Case Manager identify factors that may have contributed to the individual's lack of progress toward self-sufficiency. The information obtained on the TANF Work Activity Summary Form will be combined with the information obtained from the Medical and Social History Form and other documentation to assist the MPP Worker or MPP Case Manager and appropriate team member(s) in developing a plan that will help the individual move closer to self-sufficiency.

PA/CS 1747 – Domestic Violence Verification Form – This form, revised and renamed the “Domestic Violence Verification Form,” is used to verify domestic violence when an individual requests a waiver of program requirements (for example, child support, work and time limits) on that basis.

EFFECTIVE DATE

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

SUNSET DATE

Except for the sunset date specified in Chapter 281 (relating to time-out benefits), there is no sunset date for the Extended TANF program. TANF regulations are reviewed through the Department's quality control and corrective action review process.

REGULATORY REVIEW ACT

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on AUG 12 2002 , the Department submitted a copy of these final-form regulations to IRRC and to the Chairpersons of the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services.

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 July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

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

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 this Order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

cc: Legislative Reference Bureau

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart B. INTAKE AND REDETERMINATION

CHAPTER 133. REDETERMINING ELIGIBILITY

REDETERMINING ELIGIBILITY PROVISIONS

FOR TANF, EXTENDED TANF AND GA

§ 133.23. Requirements.

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

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

* * * * *

~~(vi) — A complete redetermination is required when a budget group transfers from TANF to Extended TANF.~~

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(b) *Partial redetermination.* Partial redetermination procedures are as follows:

(1) A partial redetermination is a review that focuses on specific eligibility factors and need and resource items.

(i) A partial redetermination is required as frequently as indicated by the budget group circumstances, and is always conducted if previously unreported income is first discovered by a quarterly wage match.

(ii) When the partial redetermination focuses on address changes or a change in income or resources, a face-to-face interview is not required if, in the judgment of the worker, the credibility and reliability of the client are such that the client's statements may be accepted. In these instances, the redetermination may be made by telephone or correspondence. If the redetermination is made by telephone or correspondence, verification shall be submitted subsequently by the client.

(iii) WHEN THE PARTIAL REDETERMINATION FOCUSES ON AN ELIGIBILITY DETERMINATION FOR EXTENDED TANF, AS DEFINED IN § 141.52 (RELATING TO DEFINITIONS), THE CAO WILL UPDATE THE EXISTING AGREEMENT OF MUTUAL RESPONSIBILITY (AMR) AS DEFINED IN § 165.2 (RELATING TO DEFINITIONS) OR COMPLETE A NEW AMR. THE REDETERMINATION MAY BE CONDUCTED BY TELEPHONE OR IN A FACE-TO-FACE INTERVIEW. IF THE REDETERMINATION IS COMPLETED BY TELEPHONE, THE CAO WILL SEND A COPY OF THE UPDATED OR NEW AMR TO THE CLIENT. THE CLIENT SHALL SIGN AND RETURN THE AMR TO THE CAO. THE AMR MUST BE RECEIVED BY THE CAO WITHIN 30 DAYS OF THE CAO SIGNATURE ON THE AMR. IF THE AMR IS NOT RECEIVED WITHIN 30 DAYS, THE CLIENT SHALL BE INELIGIBLE FOR EXTENDED TANF.

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Subpart C. ELIGIBILITY REQUIREMENTS
CHAPTER 141. GENERAL ELIGIBILITY PROVISIONS
ELIGIBILITY PROVISIONS FOR TANF, EXTENDED TANF AND GA

§ 141.21. Policy.

* * * * *

(n) **[Cooperate]** An applicant or recipient shall cooperate with the CAO in identifying and applying for Federal programs as the primary source of financial assistance, such as, but not limited to, SSI **[and]**, RSDI, TANF and Extended TANF, in accordance with the following:

(1) An applicant for TANF, Extended TANF or GA who fails, without good cause, **[fails]** to cooperate in establishing eligibility for Federal **[benefits shall be determined]** programs is ineligible for cash assistance **[for a period of no less than 60 days and thereafter until such time as the individual complies.]** as follows:

(i) For TANF, the applicant is ineligible until the applicant complies.

(ii) For GA, the applicant is ineligible for a minimum of 60 days and thereafter, until the applicant complies.

(iii) For Extended TANF, the applicant and the applicant's family are ineligible until the applicant complies.

(iv) For GA, if the applicant has received 60 months of TANF, the applicant and the applicant's family are ineligible for a minimum of 60 days and thereafter until the applicant complies.

(2) A recipient of TANF, Extended TANF or GA who fails, without good cause, [fails] to cooperate [with the CAO] in establishing [their] eligibility for SSI, RSDI, TANF, Extended TANF or other Federal [benefits, shall have assistance terminated] programs is ineligible for cash assistance until [such time as] the recipient complies. For Extended TANF and GA, if the recipient has received 60 months of TANF, the recipient's family is also ineligible until the recipient complies.

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ELIGIBILITY PROVISIONS FOR [AFDC] TANF

§ 141.41. Policy.

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~~(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 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.

ELIGIBILITY PROVISIONS FOR EXTENDED TANF

§ 141.51. Policy.

(a) ~~In addition to~~ A FAMILY THAT MEETS the requirements of Chapter 133, § 141.21 and Chapters 142, 177 and 183, a family may be eligible for Extended TANF as follows: UNDER THIS CHAPTER.

(b) A FAMILY OTHERWISE ELIGIBLE FOR TANF BUT FOR THE 60-MONTH TIME LIMIT ON FEDERALLY-FUNDED TANF ASSISTANCE MAY RECEIVE EXTENDED TANF IF THE ELIGIBILITY CONDITIONS OF § 141.53 ARE MET OR THE

ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD WHO RECEIVED 60 MONTHS OF TANF MEETS THE REQUIREMENTS OF §§ 141.54, 141.55 OR 141.56.

(c) A FAMILY MAY RECEIVE EXTENDED TANF UNDER MORE THAN ONE SECTION IN THIS CHAPTER. THE MONTHS DURING WHICH A FAMILY RECEIVES EXTENDED TANF NEED NOT BE SEQUENTIAL.

~~(1) A family that includes an adult who has exhausted 60 months of TANF may receive Extended TANF if the adult applicant or recipient or other family member is or has been a victim of domestic violence as defined in § 141.52 (relating to definitions). Eligibility for Extended TANF under this paragraph is subject to the following:~~

~~(i) Domestic violence shall be verified. If the family has a current or past waiver of TANF child support cooperation or TANF work requirements due to domestic violence, no further verification is required.~~

(ii) — An applicant or recipient who was granted a good cause waiver of TANF child support cooperation or TANF work requirements due to domestic violence may receive Extended TANF for a period of time equal to the period of time that the good cause waiver was in effect.

(iii) — An applicant or recipient who has a current waiver of TANF child support cooperation or TANF work requirements due to domestic violence may receive Extended TANF during the period the waiver is in effect, subject to periodic review in accordance with subparagraph (v).

(iv) — A family in which a member is or has been a victim of domestic violence shall comply with a domestic violence plan developed with a person trained in domestic violence services.

(v) — Eligibility shall be reviewed at least every 6 months.

~~(vi) — The adult whose family is ineligible for Extended TANF under this paragraph may qualify for Extended TANF or GA under paragraph (2) or (3).~~

~~(2) — The adult in a family which does not qualify for Extended TANF under paragraph (1) may qualify for Extended TANF under this paragraph if the adult:~~

~~(i) — Establishes good cause as specified in § 165.52 (relating to good cause) for not meeting the requirements of the RESET Program, as defined in § 141.52 (relating to definitions), or is exempt from participation in RESET because the person is one of the following:~~

~~(A) — 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.~~

~~(B) — The parent or other caretaker who is personally providing care for a child under 6 years of age for whom alternate child care arrangement is unavailable.~~

~~(C) — The custodial parent in a one parent household who is caring for a child who has not attained 12 months of age. This exemption is limited to a maximum of 12 months in the parent's lifetime.~~

~~(ii) — Agrees to enroll in the MPP, as defined in § 141.52, and cooperate in obtaining a WCA, also defined in § 141.52. The agreement to enroll in MPP and to cooperate in obtaining a WCA will be documented, as a requirement of the client, on the AMR, as specified under section 405.3 of the Public Welfare Code (62 P.S. § 405.3).~~

~~(A) — If the results of the WCA indicate that the adult has a medical condition, functional limitation or good cause situation that precludes the individual from complying with RESET requirements, the adult shall comply with a service plan developed by the MPP Team, as defined in § 141.52, and documented on the AMR.~~

~~(B) — If the results of the WCA indicate that the adult does not have a medical condition, functional limitation or good cause situation that precludes the individual from complying with RESET requirements, the adult will be referred to the WPP, as described in paragraph (3), and defined in § 141.52.~~

~~(3) — The adult in a family which does not qualify for Extended TANF under paragraph (1) or (2) may qualify for Extended TANF under this paragraph if the adult:~~

~~(i) — Agrees to enroll in the WPP, as documented on the AMR.~~

~~(ii) — Cooperates in obtaining a vocational assessment, as defined in § 141.52.~~

~~(A) — If the results of the vocational assessment indicate that the adult is able to comply with RESET requirements, the adult shall participate a minimum of 30 hours per week in a combination of work and work related activities, as specified in section 402 of the Public Welfare Code (62 P.S. § 402).~~

~~(B) — If the results of the vocational assessment indicate that the adult may have a medical condition, functional limitation or good cause situation that precludes the individual from complying with RESET requirements, the adult shall be referred to the MPP, as described in paragraph (2).~~

(b) — A family is ineligible for Extended TANF if:

(1) — The adult fails, without good cause, to cooperate in establishing eligibility for Extended TANF and other Federal programs, as specified under § 141.21(n) (relating to policy). The family is also ineligible for GA, as specified under § 141.21(n) and § 141.61(a)(1)(xii) (relating to conditions of eligibility).

(2) — The adult fails, without good cause, to obtain a WCA or to comply with the MPP service plan or the domestic violence plan, whichever applies. The family is also ineligible for GA, as specified under §§ 141.21(n) and 141.61(a)(1)(xii).

(3) — The adult willfully fails, without good cause, to obtain a vocational assessment or to comply with the WPP, whichever is applicable. A sanction will be imposed on the family as follows:

(i) — For the first occurrence, 30 days or until the adult is willing to comply, whichever is longer.

(ii) — For the second occurrence, 60 days or until the adult is willing to comply, whichever is longer.

(iii) — For the third occurrence, permanently.

§ 141.52. Definitions.

The following words and terms, when used in this section and § 141.51 (relating to policy) 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.

Extended TANF – Federally-funded TANF cash assistance for eligible families in which an adult HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD ~~has exhausted~~ RECEIVED 60 cumulative months of TANF cash assistance.

MPP – Maximizing Participation Project – ~~A program to assist individuals remedy medical conditions, functional limitations and good cause situations that preclude the individual from complying with RESET requirements~~ AS DEFINED IN § 281.2 (RELATING TO DEFINITIONS).

MPP ASSESSMENT – AN EVALUATION OF MEDICAL CONDITIONS, FUNCTIONAL LIMITATIONS AND GOOD CAUSE SITUATIONS THAT MAY PRECLUDE OR LIMIT AN ADULT'S COMPLIANCE WITH RESET.

MPP SERVICE PLAN - A DOCUMENT DEVELOPED BY THE MPP TEAM IN CONSULTATION WITH THE INDIVIDUAL TO OUTLINE THE STEPS AND SERVICES NECESSARY TO ENABLE THE ADULT TO INCREASE SELF-SUFFICIENCY. THIS MAY INCLUDE ONE OR MORE OF THE FOLLOWING: ATTENDING ENGLISH-AS-A-SECOND LANGUAGE (ESL) CLASSES, ATTENDING MENTAL HEALTH COUNSELING, ATTENDING GENERAL EQUIVALENCY DIPLOMA (GED) CLASSES, RECEIVING SUBSTANCE ABUSE TREATMENT, COMPLIANCE WITH A FAMILY SERVICE PLAN OR FAMILY COURT RECOMMENDATIONS.

MPP team – A multidisciplinary group consisting of a CAO worker or an agent authorized by the Department and ~~other individuals including representatives from State and local agencies~~ PROFESSIONALS FROM VARIOUS DISCIPLINES, WHICH MAY INCLUDE PHYSICIANS, PSYCHOLOGISTS AND VOCATIONAL OR BEHAVIORAL REHABILITATION SPECIALISTS.

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 AS DEFINED IN § 165.2 (RELATING TO DEFINITIONS).

Service plan – A document developed to outline the steps necessary to enable an adult to engage in work, increase work participation or otherwise increase self sufficiency.

SELF-EMPLOYMENT – OPERATING ONE'S OWN BUSINESS, TRADE OR PROFESSION FOR PROFIT EQUAL TO OR GREATER THAN THE HOURLY FEDERAL OR STATE MINIMUM WAGE, WHICHEVER IS HIGHER.

Victim of domestic violence – An individual who is or has been battered or subjected to extreme cruelty, as defined in section 408(a)(7)(C)(iii) of the Social Security Act (42 U.S.C.A. § 608(a)(7)(C)(iii)).

Vocational assessment – An evaluation of the factors that impact the client's AN INDIVIDUAL'S ability to perform work, including the client's educational level, employment preferences, work history, skills, abilities and life circumstances.

WCA – Work Capacity Assessment – An independent medical, vocational or functional evaluation, or a combination of these, conducted by a physician or psychologist approved by the Department PERFORMED BY A CONTRACTOR, OF MEDICAL CONDITIONS, FUNCTIONAL LIMITATIONS OR GOOD CAUSE SITUATIONS THAT MAY PRECLUDE OR LIMIT AN INDIVIDUAL'S COMPLIANCE WITH RESET.

(i) — If the client has a medical condition or functional limitation, the WCA is to be conducted based upon accepted medical standards, as well as standard framework and method of analysis.

(ii) — The standard framework and method of analysis used will be the most recent edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.

~~(iii) — If the client has a good cause situation other than a medical condition or functional limitation, the WCA may or may not require an examination of the client.~~

~~(iv) — The WCA will always include an evaluation of existing documentation of the good cause situation.~~

WPP – Work Plus Program – An employment and training program funded by the Department providing work and work-related activities for at least 30 hours per week FOR INDIVIDUALS ELIGIBLE FOR EXTENDED TANF.

§ 141.53. ELIGIBILITY BASED ON DOMESTIC VIOLENCE.

(a) *ELIGIBILITY.* A FAMILY MAY RECEIVE EXTENDED TANF IF THE INDIVIDUAL OR OTHER FAMILY MEMBER IS OR HAS BEEN A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN § 187.22 (RELATING TO DEFINITIONS) OR IS AT RISK OF FURTHER DOMESTIC VIOLENCE. ELIGIBILITY FOR EXTENDED TANF UNDER THIS SECTION IS SUBJECT TO THE FOLLOWING:

(1) *VERIFICATION OF DOMESTIC VIOLENCE NOT REQUIRED.* NO FURTHER VERIFICATION OF DOMESTIC VIOLENCE IS REQUIRED IF THE INDIVIDUAL OR OTHER FAMILY MEMBER HAS:

(i) A CURRENT OR PAST GOOD CAUSE WAIVER OF CHILD SUPPORT COOPERATION REQUIREMENTS;

(ii) A CURRENT OR PAST WAIVER OF RESET REQUIREMENTS UNDER CHAPTER 165 (RELATING TO ROAD TO ECONOMIC SELF-SUFFICIENCY THROUGH EMPLOYMENT AND TRAINING (RESET)); OR

(iii) RECEIVED TIME-OUT BENEFITS UNDER CHAPTER 281 (RELATING TO TIME-OUT BENEFITS) BASED ON DOMESTIC VIOLENCE.

(2) *VERIFICATION OR SELF-AFFIRMATION OF DOMESTIC VIOLENCE REQUIRED.* IF THE INDIVIDUAL IS NOT EXCUSED FROM PROVIDING VERIFICATION OF DOMESTIC VIOLENCE UNDER PARAGRAPH (a)(1), THE INDIVIDUAL SHALL:

(i) PROVIDE ONE OF THE TYPES OF VERIFICATION SPECIFIED IN § 187.27(b)(iv)-(vi) (RELATING TO WAIVER OF COOPERATION FOR GOOD CAUSE); OR

(ii) AFFIRM IN WRITING THAT THE INDIVIDUAL OR OTHER FAMILY MEMBER IS AT RISK OF DOMESTIC VIOLENCE AND UNABLE TO SAFELY OBTAIN OTHER EVIDENCE.

(3) *COMPLETION OF FORM.* THE CAO AND THE INDIVIDUAL SHALL COMPLETE THE DOMESTIC VIOLENCE VERIFICATION FORM UNDER § 187.27(b)(vii), EXCEPT THAT THE 6-MONTH LIMITATION IN § 187.27(b)(vii)(C) SHALL NOT APPLY. THE PERPETRATOR OR ALLEGED PERPETRATOR OF THE DOMESTIC VIOLENCE IS PROHIBITED FROM COMPLETING THE DOMESTIC VIOLENCE VERIFICATION FORM.

(b) *DOMESTIC VIOLENCE SERVICES PLAN.* THE INDIVIDUAL SHALL HAVE A DOMESTIC VIOLENCE SERVICES PLAN THAT MEETS THE REQUIREMENTS OF 45 CFR § 260.55(c) (RELATING TO WHAT ARE THE ADDITIONAL REQUIREMENTS FOR FEDERAL RECOGNITION OF GOOD CAUSE DOMESTIC VIOLENCE WAIVERS).

(c) *DURATION.* IF OTHERWISE ELIGIBLE, A FAMILY MAY RECEIVE EXTENDED TANF BASED ON DOMESTIC VIOLENCE FOR SO LONG AS NECESSARY.

(d) *REVIEW OF ELIGIBILITY.*

(1) *REVIEW OF ELIGIBILITY.* THE CAO WILL REVIEW ELIGIBILITY FOR EXTENDED TANF BASED ON DOMESTIC VIOLENCE AT LEAST EVERY 6 MONTHS.

(2) *ADDITIONAL VERIFICATION.* NO ADDITIONAL VERIFICATION OF DOMESTIC VIOLENCE IS REQUIRED IF CIRCUMSTANCES HAVE NOT CHANGED.

(e) *INELIGIBILITY.* IF THE INDIVIDUAL FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE FAMILY IS INELIGIBLE FOR EXTENDED TANF UNDER THIS SECTION UNTIL THE INDIVIDUAL COMPLIES.

(f) *OTHER BASES FOR ELIGIBILITY.* A FAMILY INELIGIBLE FOR EXTENDED TANF BASED ON DOMESTIC VIOLENCE MAY BE ELIGIBLE FOR EXTENDED TANF UNDER §§ 141.54 (RELATING TO MAXIMIZING PARTICIPATION PROJECT), 141.55 (RELATING TO MANDATORY RESET PARTICIPANTS) OR 141.56 (RELATING TO DEFERRED REFERRAL).

(g) AS USED IN THIS SECTION, THE FOLLOWING WORD SHALL HAVE THE MEANING GIVEN IN THIS SUBSECTION:

INDIVIDUAL – ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD.

§141.54. MAXIMIZING PARTICIPATION PROJECT.

(a) *ELIGIBILITY.* A FAMILY MAY BE ELIGIBLE FOR EXTENDED TANF UNDER THIS SECTION IF THE INDIVIDUAL WHO HAS RECEIVED 60 MONTHS OF TANF ASSISTANCE MEETS THE REQUIREMENTS OF PARAGRAPHS (1), (2) OR (3) AS FOLLOWS:

(1) IS EXEMPT FROM PARTICIPATION IN RESET BECAUSE THE INDIVIDUAL IS 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; OR

(2) IS NOT EXEMPT FROM RESET BUT HAS GOOD CAUSE FOR NOT COMPLYING WITH RESET AND REFERRAL TO MPP, WPP OR ANOTHER EMPLOYMENT AND TRAINING PROGRAM WAS DEFERRED UNDER § 141.56(a)(2) (RELATING TO DEFERRED REFERRAL).

(3) IS EXEMPT FROM PARTICIPATION IN RESET BECAUSE THE INDIVIDUAL IS THE PARENT OR SPECIFIED RELATIVE WHO IS PROVIDING CARE FOR A CHILD UNDER 6 YEARS OF AGE AND FOR WHOM ALTERNATE CHILD CARE ARRANGEMENT IS UNAVAILABLE, AND REFERRAL TO MPP, WPP OR ANOTHER EMPLOYMENT AND TRAINING PROGRAM WAS DEFERRED UNDER § 141.56(a)(3) (RELATING TO DEFERRED REFERRAL).

(b) *REQUIREMENTS.*

(1) *GENERAL.* EXCEPT AS PROVIDED IN (b)(2), AS A CONDITION OF ELIGIBILITY UNDER THIS SECTION, THE INDIVIDUAL SHALL:

(i) AGREE ON AN AMR TO ENROLL IN MPP, COOPERATE IN OBTAINING A WCA, SIGN AND COMPLY WITH THE MPP SERVICE PLAN.

(ii) ENROLL IN MPP, COOPERATE IN OBTAINING A WCA, SIGN AND COMPLY WITH THE MPP SERVICE PLAN.

(iii) AUTHORIZE THE RELEASE OF INFORMATION AND COOPERATE IN OBTAINING INFORMATION RELEVANT TO THE WCA, MPP ASSESSMENT, OR MPP SERVICE PLAN, WHICHEVER IS APPLICABLE.

(2) *EXCEPTIONS TO WCA REQUIREMENT.*

(i) AN INDIVIDUAL WHOSE CURRENT ENROLLMENT IN MPP BEGAN BEFORE THE INDIVIDUAL RECEIVED 60 MONTHS OF TANF ASSISTANCE, OR WHO IS GRANDFATHERED UNDER THIS SECTION, AS DESCRIBED IN (b)(2)(ii), MAY CONTINUE IN MPP WITHOUT A WCA IF:

(A) THE INDIVIDUAL HAS RECEIVED AN MPP ASSESSMENT; OR

(B) THE INDIVIDUAL HAS AGREED ON AN AMR TO RECEIVE AN MPP ASSESSMENT.

(ii) AN INDIVIDUAL IS GRANDFATHERED UNDER THIS SECTION IF THE INDIVIDUAL'S CURRENT ENROLLMENT IN MPP BEGAN BEFORE IMPLEMENTATION OF THIS SECTION.

(3) *THE WCA.*

(i) *PURPOSE AND SCOPE.*

(A) THE WCA WILL SEEK TO IDENTIFY:

(I) THE NATURE AND EXTENT OF MEDICAL CONDITIONS, FUNCTIONAL LIMITATIONS AND GOOD CAUSE SITUATIONS THAT PRECLUDE OR LIMIT THE INDIVIDUAL FROM COMPLYING WITH RESET PARTICIPATION REQUIREMENTS.

(II) THE INDIVIDUAL'S RANGE OF ABILITY TO ENGAGE IN WORK AND WORK-RELATED ACTIVITIES, WITH AND WITHOUT APPROPRIATE TREATMENT.

(B) THE WCA WILL INCLUDE AN EVALUATION OF EXISTING DOCUMENTATION REGARDING MEDICAL CONDITIONS AND FUNCTIONAL LIMITATIONS. THE WCA WILL ALSO INCLUDE CONSIDERATION OF PREVIOUSLY UNDIAGNOSED CONDITIONS AND LIMITATIONS.

(C) FOR EVALUATION OF A MEDICAL CONDITION OR FUNCTIONAL LIMITATIONS, THE WCA WILL REQUIRE AN EXAMINATION OF THE INDIVIDUAL. FOR EVALUATION OF A GOOD CAUSE SITUATION, THE WCA MAY REQUIRE AN EXAMINATION OF THE INDIVIDUAL IF NECESSARY AND RELEVANT TO THE DETERMINATION OF THE GOOD CAUSE SITUATION.

(D) THE WCA MAY INCLUDE ADDITIONAL TESTING AS NEEDED TO FACILITATE DIAGNOSIS AND APPROPRIATE TREATMENT RECOMMENDATIONS.

(E) THE FINDINGS AND
RECOMMENDATIONS OF THE WCA WILL BE PROVIDED TO THE MPP
TEAM.

(ii) *STANDARDS FOR REVIEW OF MEDICAL
CONDITIONS AND FUNCTIONAL LIMITATIONS.*

(A) IF THE INDIVIDUAL HAS A MEDICAL
CONDITION OR FUNCTIONAL LIMITATION THAT PRECLUDES OR LIMITS
COMPLIANCE WITH RESET, THE WCA WILL BE CONDUCTED BASED UPON
ACCEPTED MEDICAL STANDARDS FOR THE EVALUATION OF
IMPAIRMENTS, USING A STANDARD FRAMEWORK AND METHOD OF
ANALYSIS.

(B) THE STANDARD FRAMEWORK AND
METHOD OF ANALYSIS USED FOR THE EVALUATION OF TEMPORARY
AND PERMANENT IMPAIRMENTS WILL BE THE MOST RECENT EDITION OF
THE AMERICAN MEDICAL ASSOCIATION, *GUIDES TO THE EVALUATION
OF PERMANENT IMPAIRMENT.*

(iii) *EVIDENCE OF MEDICAL CONDITIONS AND FUNCTIONAL LIMITATIONS.*

(A) *EXISTING DOCUMENTATION.* THE INDIVIDUAL SHALL OBTAIN EXISTING DOCUMENTATION REGARDING MEDICAL CONDITIONS AND FUNCTIONAL LIMITATIONS THAT MAY PRECLUDE OR LIMIT COMPLIANCE WITH RESET, INCLUDING AVAILABLE RECORDS OF THE TREATING PHYSICIAN AND PSYCHOLOGIST. IF NECESSARY, THE DEPARTMENT OR ITS AGENT WILL ASSIST THE INDIVIDUAL IN OBTAINING EXISTING DOCUMENTATION.

(B) *TREATING PHYSICIAN OPINIONS.* THE WCA WILL INCLUDE CONSIDERATION OF AVAILABLE OPINIONS OF THE TREATING PHYSICIAN.

(4) *RESULTS OF THE WCA OR MPP ASSESSMENT.*

(i) IF THE RESULTS OF THE WCA OR MPP ASSESSMENT REVEAL A MEDICAL CONDITION, FUNCTIONAL LIMITATION OR GOOD CAUSE SITUATION THAT PRECLUDES THE INDIVIDUAL FROM COMPLYING WITH RESET, THE MPP TEAM WILL DEVELOP AN MPP SERVICE PLAN IN CONSULTATION WITH THE INDIVIDUAL.

(ii) IF THE RESULTS OF THE WCA OR MPP ASSESSMENT DO NOT REVEAL A MEDICAL CONDITION, FUNCTIONAL LIMITATION OR GOOD CAUSE SITUATION THAT PRECLUDES THE INDIVIDUAL FROM COMPLYING WITH RESET, THE INDIVIDUAL WILL BE REFERRED TO AN APPROPRIATE EMPLOYMENT AND TRAINING ACTIVITY. IF THE RESULTS INDICATE THAT THERE IS A MEDICAL CONDITION, FUNCTIONAL LIMITATION OR GOOD CAUSE SITUATION THAT LIMITS BUT DOES NOT PRECLUDE THE INDIVIDUAL'S ABILITY TO PARTICIPATE IN RESET, THE RELEVANT WCA FINDINGS AND RECOMMENDATIONS WILL BE PROVIDED WITH THE REFERRAL.

(iii) AN INDIVIDUAL WHO DISAGREES WITH THE FINDINGS OR RECOMMENDATIONS OF THE WCA MAY REQUEST A SECOND OPINION WCA.

(c) *INELIGIBILITY*. IF THE INDIVIDUAL FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE FAMILY IS INELIGIBLE FOR EXTENDED TANF UNDER THIS SECTION UNTIL THE INDIVIDUAL COMPLIES.

(d) AS USED IN THIS SECTION, THE FOLLOWING WORD SHALL HAVE THE MEANING GIVEN IN THIS SUBSECTION:

INDIVIDUAL – ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD.

§ 141.55. MANDATORY RESET PARTICIPANTS.

(a) *GENERAL.* A FAMILY MAY QUALIFY FOR EXTENDED TANF UNDER THIS SECTION IF THE INDIVIDUAL WHO HAS RECEIVED 60 MONTHS OF TANF MEETS THE REQUIREMENTS OF THIS SECTION, AS FOLLOWS:

(1) *EMPLOYED 30 OR MORE HOURS PER WEEK.* IF THE INDIVIDUAL IS EMPLOYED AT LEAST 30 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT, INCLUDING SELF-EMPLOYMENT, NO ADDITIONAL WORK OR WORK ACTIVITY IS REQUIRED. THE INDIVIDUAL MAY VOLUNTEER FOR EMPLOYMENT AND TRAINING PROGRAMS THAT ARE DESIGNED TO INCREASE THE INDIVIDUAL'S EARNING CAPACITY.

(2) *PARTICIPATING IN AN EMPLOYMENT AND TRAINING PROGRAM.* THE INDIVIDUAL IS CONTINUING PARTICIPATION IN AN EMPLOYMENT AND TRAINING PROGRAM APPROVED ON AN AMR WHILE THE INDIVIDUAL WAS RECEIVING TANF.

(3) *EMPLOYED 20-29 HOURS PER WEEK.* AN INDIVIDUAL WHO IS EMPLOYED 20-29 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT, INCLUDING SELF-EMPLOYMENT, SHALL MAINTAIN EMPLOYMENT. EXCEPT AS SPECIFIED IN SUBSECTION (a)(6), THE INDIVIDUAL SHALL ALSO ENROLL AND PARTICIPATE IN A JOB RETENTION AND ADVANCEMENT PROGRAM, FUNDED OR APPROVED BY THE DEPARTMENT, TO BRING THE COMBINED TOTAL NUMBER OF HOURS TO AT LEAST 30 HOURS PER WEEK.

(4) *EMPLOYED LESS THAN 20 HOURS PER WEEK.* AN INDIVIDUAL WHO IS EMPLOYED LESS THAN 20 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT SHALL MAINTAIN EMPLOYMENT. EXCEPT AS SPECIFIED IN SUBSECTION (a)(6), THE INDIVIDUAL SHALL ALSO ENROLL AND PARTICIPATE IN WPP, TO BRING THE COMBINED TOTAL NUMBER OF HOURS TO AT LEAST 30 HOURS PER WEEK.

(5) *NOT EMPLOYED.* EXCEPT AS SPECIFIED IN SUBSECTION (a)(6), AN INDIVIDUAL WHO IS NOT EMPLOYED IN UNSUBSIDIZED EMPLOYMENT SHALL ENROLL AND PARTICIPATE IN WPP FOR AT LEAST 30 HOURS PER WEEK.

(6) *SPECIAL GOOD CAUSE PROVISION.* IF THE INDIVIDUAL ESTABLISHES GOOD CAUSE FOR NOT PARTICIPATING IN AT LEAST 30 HOURS PER WEEK OF COMBINED WORK AND WORK-RELATED ACTIVITIES BUT IS REQUIRED TO COMPLY WITH RESET, THE FOLLOWING RULES APPLY:

(i) IF THE INDIVIDUAL IS EMPLOYED 20-29 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT, THE INDIVIDUAL SHALL MAINTAIN EMPLOYMENT.

(ii) IF THE INDIVIDUAL IS EMPLOYED LESS THAN 20 HOURS PER WEEK IN UNSUBSIDIZED EMPLOYMENT, THE INDIVIDUAL SHALL MAINTAIN EMPLOYMENT. THE INDIVIDUAL SHALL ALSO AGREE ON AN AMR TO COMPLY WITH RESET BY PARTICIPATING IN WPP FOR A COMBINED TOTAL OF AT LEAST 20 HOURS PER WEEK.

(iii) IF THE INDIVIDUAL IS NOT EMPLOYED IN UNSUBSIDIZED EMPLOYMENT, THE INDIVIDUAL SHALL AGREE ON AN AMR TO COMPLY WITH RESET BY PARTICIPATING IN WPP FOR AT LEAST 20 HOURS PER WEEK.

(iv) THE INDIVIDUAL WHO ESTABLISHES GOOD CAUSE FOR NOT PARTICIPATING IN AT LEAST 30 HOURS PER WEEK OF COMBINED WORK AND WORK-RELATED ACTIVITIES SHALL ALSO AGREE ON AN AMR TO ADDRESS THE GOOD CAUSE SITUATION. THE AMR WILL SET FORTH THE STEPS THE INDIVIDUAL SHALL UNDERTAKE TO ADDRESS THE GOOD CAUSE SITUATION INCLUDING COOPERATION WITH A WPP CONTRACTOR.

(b) *WORK PLUS PROGRAM.*

(1) AN INDIVIDUAL ENROLLED IN WPP SHALL COOPERATE IN OBTAINING A VOCATIONAL ASSESSMENT, PERFORMED BY AN EMPLOYMENT AND TRAINING CONTRACTOR.

(2) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT INDICATE THAT THE INDIVIDUAL IS NOT PRECLUDED FROM COMPLYING WITH RESET, THE INDIVIDUAL SHALL PARTICIPATE A MINIMUM OF 30 HOURS PER WEEK IN A COMBINATION OF WORK AND WORK-RELATED ACTIVITIES, IN ACCORDANCE WITH THE FAIR LABOR STANDARDS ACT (29 U.S.C.A. §§ 201-219). WORK-RELATED ACTIVITIES MAY INCLUDE ENGLISH-AS-A-SECOND LANGUAGE (ESL) CLASSES. IF THE INDIVIDUAL ESTABLISHES GOOD CAUSE FOR NOT PARTICIPATING IN AT LEAST 30 HOURS PER WEEK OF WORK AND WORK-RELATED ACTIVITIES, THE INDIVIDUAL SHALL COMPLY WITH RESET IN ACCORDANCE WITH SUBSECTION (a)(6).

(3) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT REVEAL A MEDICAL CONDITION, FUNCTIONAL LIMITATION OR GOOD CAUSE SITUATION THAT PRECLUDES THE INDIVIDUAL FROM COMPLYING WITH RESET REQUIREMENTS, THE INDIVIDUAL SHALL BE REFERRED TO MPP.

(4) IF THE RESULTS OF THE VOCATIONAL ASSESSMENT INDICATE THAT THE INDIVIDUAL IS NOT PRECLUDED FROM COMPLYING WITH RESET BUT, BECAUSE OF DISABILITY, NEEDS A REASONABLE ACCOMMODATION OF PROGRAM RULES AND REQUIREMENTS, SUCH ACCOMMODATION SHALL BE MADE, IN ACCORDANCE WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT (42 U.S.C.A. §§ 12131-12165). FINDINGS AND RECOMMENDATIONS PROVIDED WITH A REFERRAL FROM MPP WILL BE CONSIDERED IN PROVIDING ACCOMMODATION.

(c) *SANCTIONS*. IF THE INDIVIDUAL FAILS TO COMPLY WITH § 141.55 (RELATING TO MANDATORY RESET PARTICIPANTS), A COMPLIANCE REVIEW IS CONDUCTED IN ACCORDANCE WITH § 165.51 (RELATING TO COMPLIANCE REVIEW). IF THE INDIVIDUAL WILLFULLY FAILS, WITHOUT GOOD CAUSE, AS DESCRIBED IN § 165.52 (RELATING TO GOOD CAUSE), TO COMPLY WITH § 141.55, A SANCTION IS IMPOSED ON THE BUDGET GROUP UNDER § 165.61 (RELATING TO SANCTIONS).

(d) AS USED IN THIS SECTION, THE FOLLOWING WORD SHALL HAVE THE MEANING GIVEN IN THIS SUBSECTION:

INDIVIDUAL – ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD.

§ 141.56. DEFERRED REFERRAL.

(a) *GENERAL*. A FAMILY MAY QUALIFY FOR EXTENDED TANF IF THE INDIVIDUAL MEETS ONE OF THE ELIGIBILITY CRITERIA OF PARAGRAPHS (1) – (4) AND COMPLIES WITH AN AMR:

(1) IS A PARENT IN A ONE-PARENT HOUSEHOLD WHO IS CARING FOR A CHILD WHO HAS NOT ATTAINED THE AGE OF 12 MONTHS AND THE PARENT IS EXEMPT FROM RESET UNDER § 165.21(c)(4) (RELATING TO EXEMPTIONS FROM RESET PARTICIPATION REQUIREMENTS).

(2) IS CARING FOR A DISABLED CHILD OR ADULT FOR WHOM APPROPRIATE CARE IS UNAVAILABLE WITHIN A REASONABLE DISTANCE FROM HOME OR OTHERWISE ESTABLISHES GOOD CAUSE FOR NOT COMPLYING WITH RESET UNDER § 165.52 (RELATING TO GOOD CAUSE).

(3) IS THE PARENT OR SPECIFIED RELATIVE WHO IS PROVIDING CARE FOR A CHILD UNDER 6 YEARS OF AGE AND FOR WHOM ALTERNATE CHILD CARE ARRANGEMENT IS UNAVAILABLE.

(4) IS IN THE PROCESS OF A COMPLIANCE REVIEW UNDER § 165.51 (RELATING TO COMPLIANCE REVIEW) OR RECEIVING TANF ASSISTANCE PENDING TIMELY APPEAL UNDER § 275.4(a)(3)(v)(C)(I) (RELATING TO PROCEDURES).

(b) *REDETERMINATION.*

(1) THE CAO WILL REDETERMINE ELIGIBILITY UNDER PARAGRAPH (a)(1) EVERY 6 MONTHS OR ON THE DATE THE 12-MONTH LIMIT ON THE PARENT'S EXEMPTION FROM RESET UNDER § 165.21(c)(4) EXPIRES, WHICHEVER IS SOONER.

(2) EXCEPT FOR ELIGIBILITY UNDER PARAGRAPH (a)(1), THE CAO WILL DETERMINE ELIGIBILITY UNDER THIS SECTION WHEN CIRCUMSTANCES CHANGE AND NO LESS OFTEN THAN EVERY 90 DAYS.

(c) *OUTCOME OF REDETERMINATION.*

(1) IF CIRCUMSTANCES HAVE CHANGED SO THAT THE FAMILY NO LONGER MEETS THE REQUIREMENTS OF SUBSECTION (a) OF THIS SECTION, THE CAO WILL DETERMINE IF THE FAMILY IS OTHERWISE ELIGIBLE FOR EXTENDED TANF UNDER § 141.53 (RELATING TO ELIGIBILITY DUE TO DOMESTIC VIOLENCE), § 141.54 (RELATING TO MAXIMIZING PARTICIPATION PROJECT) OR § 141.55 (RELATING TO MANDATORY RESET PARTICIPATION).

(2) IF CIRCUMSTANCES HAVE NOT CHANGED, THE CAO WILL REFER THE INDIVIDUAL TO MPP UNLESS THE BASIS FOR DEFERRED REFERRAL IS EXPECTED TO BE RESOLVED IN LESS THAN 90 DAYS FROM THE DATE OF REDETERMINATION.

(d) AS USED IN THIS SECTION, THE FOLLOWING WORD SHALL HAVE THE MEANING GIVEN IN THIS SUBSECTION:

INDIVIDUAL – ADULT HEAD OF HOUSEHOLD OR SPOUSE OF HEAD OF HOUSEHOLD.

§ 141.57. SPECIAL ALLOWANCES.

(a) AN INDIVIDUAL WHO RECEIVES EXTENDED TANF AS SPECIFIED IN §§ 141.53 - 141.55 MAY RECEIVE SPECIAL ALLOWANCES UNDER § 165.41 (RELATING TO ELIGIBILITY FOR SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES).

(b) AN INDIVIDUAL WHO IS ELIGIBLE FOR EXTENDED TANF MAY RECEIVE SPECIAL ALLOWANCES, INCLUDING ALLOWANCES FOR CHILD CARE AND TRANSPORTATION NECESSARY TO ENABLE THE INDIVIDUAL TO PARTICIPATE IN PROGRAMS AND ACTIVITIES THAT ARE PART OF THE INDIVIDUAL'S MPP SERVICE PLAN, DOMESTIC VIOLENCE SERVICES PLAN OR EMPLOYMENT AND TRAINING ACTIVITIES LISTED ON THE AMR.

§ 141.58 APPEAL RIGHTS.

AN INDIVIDUAL MAY APPEAL THE DENIAL OR TERMINATION OF EXTENDED TANF UNDER CHAPTER 275 (RELATING TO APPEAL AND FAIR HEARING AND ADMINISTRATIVE DISQUALIFICATION HEARINGS).

ELIGIBILITY PROVISIONS FOR GA

§ 141.61. Policy.

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

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

* * * * *

(xii) Furthermore, eligibility for GA requires that the person be ineligible for TANF and Extended TANF because of failure to meet TANF and Extended TANF definitive conditions. An applicant or recipient who does not [meet a definitive condition] qualify for TANF or Extended TANF solely because of a refusal or failure, without good cause, to establish eligibility for TANF or Extended TANF is

ineligible for GA. A person meeting definitive conditions but ineligible for TANF because of income, resources or participation in a strike is not eligible for GA. A person who refuses without good cause to cooperate in establishing paternity or support as required in the TANF or Extended TANF program is ~~[not eligible]~~ ineligible for GA. A family in which an adult refuses or fails, without good cause, to cooperate in establishing and maintaining eligibility for Extended TANF as provided in § 141.51(a)(1)–(3) (relating to ~~policy~~ §§ 141.53 – 141.56 is also ineligible for GA.

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

* * * * *

§ 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 and the employment and training worker~~
~~which establishes an employment goal with specific time frames and activities to~~
~~achieve the goal and describes services to be provided by the Department and the~~
~~activities to be undertaken by the recipient~~ 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.

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.~~

~~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).~~

~~Full-time child care -- Child care of at least 5 hours per day.~~

~~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.~~

~~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.~~

Participant – An individual who is actively engaged in a mutually agreed upon and approved education, employment or training related activity.

Part-time child care – Child care of less than 5 hours per day.

Preexpenditure approval – Approval by a person specified by the Department prior to the recipient's incurring an expense for an item or service.

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.

Special allowances for supportive services – Payments for items and services as determined by the Department to be necessary to enable a participant to prepare for, seek, accept or maintain education, employment or training.

* * * * *

~~ENROLLMENT~~ EXEMPTIONS FROM 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 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~~.

(ii) Because mentally ill or mentally retarded persons cannot always acknowledge or explain their impairment and are frequently incapable of obtaining verification, persons who, in the judgment of the worker are mentally impaired, shall be referred to the Disability Advocacy Program for further evaluation. These persons will be exempt pending the result of an evaluation.

(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.

(iv) THE DEPARTMENT MAY REQUIRE AN APPLICANT OR RECIPIENT TO SUBMIT TO AN INDEPENDENT EXAMINATION AS A CONDITION OF RECEIVING ASSISTANCE.

(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. 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 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.~~

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.~~

~~(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. THE FOLLOWING RESET PARTICIPATION REQUIREMENTS ALWAYS APPLY:

(1) AN INDIVIDUAL WHO IS NOT EXEMPT UNDER § 165.21 (RELATING TO EXEMPTIONS FROM RESET PARTICIPATION REQUIREMENTS) SHALL SEEK AND ACCEPT ANY BONA FIDE OFFER OF EMPLOYMENT 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.

(3) A NONEXEMPT INDIVIDUAL SHALL NOT, WITHOUT GOOD CAUSE, VOLUNTARILY TERMINATE EMPLOYMENT, REDUCE EARNINGS OR FAIL TO APPLY FOR WORK.

(4) INFORMATION INDICATING NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION WILL RESULT IN A COMPLIANCE REVIEW IN ACCORDANCE WITH § 165.51 (RELATING TO 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).

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

(1) A NONEXEMPT INDIVIDUAL WHO IS NOT EMPLOYED FOR AN AVERAGE OF AT LEAST 20 HOURS PER WEEK SHALL PARTICIPATE IN A WORK-RELATED ACTIVITY.

(2) A NONEXEMPT INDIVIDUAL WHO 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 WORK-RELATED ACTIVITY, INCLUDING WORK-RELATED ACTIVITIES SPECIFIED ON THE AMR.

(3) FOR THE INITIAL WORK-RELATED ACTIVITY, THE INDIVIDUAL SHALL PARTICIPATE IN AN INITIAL JOB SEARCH FOR UP TO 8 WEEKS, EXCEPT AS PROVIDED IN PARAGRAPH (6) AND SUBSECTION (f).

(i) FOR 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.

(4) AFTER THE INITIAL JOB SEARCH, THE INDIVIDUAL MAY FULFILL THE WORK-RELATED ACTIVITY REQUIREMENT, SUBJECT TO THE LIMITATIONS IN PARAGRAPHS (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) JOB SEARCH, WHETHER INDEPENDENT OR ASSISTED, AND JOB READINESS AND JOB PREPARATION ACTIVITIES.
- (vii) VOCATIONAL EDUCATION TRAINING OR JOB SKILLS TRAINING.

(viii) 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) 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) 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.

(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).

(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 MAY FULFILL 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.

(c) *REQUIREMENTS THAT APPLY 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, A NONEXEMPT INDIVIDUAL SHALL, AS A CONDITION OF 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) 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) *AMR AND EDP*. Final approval of the WORK AND WORK-RELATED ACTIVITIES LISTED IN THE AMR OR EDP rests with the Department. The AMR AND EDP is ARE not considered a ~~contract~~ CONTRACTS. Factors to be considered in developing the AMR AND EDP include:

- (1) Available program resources.
- (2) The client's previous education and training.
- (3) The client's supportive services needs.
- (4) The client's skills level and aptitudes.
- (5) Local employment opportunities.
- (6) The client's goals and interests, to the extent possible.

(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.~~

(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 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.

(e) The CAO shall assist the participant to obtain supportive services to participate in employment, education, training and job search activities, including precomponent activities such as orientation.

(f) Except as otherwise restricted in this chapter, special allowances for supportive services may be granted as often as required to enable the individual to participate in an approved education or training activity and once for each job.

* * * * *

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 INDICATES THAT A RECIPIENT MAY BE OUT OF COMPLIANCE WITH RESET PARTICIPATION REQUIREMENTS, AS SPECIFIED IN § 165.31 (RELATING TO RESET PARTICIPATION REQUIREMENTS). ~~The conciliation session shall be conducted in person, at an agreed upon time, unless the recipient would prefer to have it by telephone.~~

(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.~~ *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.

(d) *RESULTS OF COMPLIANCE REVIEW.* THE CASEWORKER WILL DOCUMENT THE RESULTS OF THE COMPLIANCE REVIEW. IF THE CASEWORKER DETERMINES THAT A RECIPIENT HAS WILLFULLY FAILED, WITHOUT GOOD CAUSE, TO COMPLY WITH 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 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).
- (4) The working conditions are substandard; that is, the place of employment is not free of recognized hazards that are causing or are likely to cause death or serious physical harm, or the wages paid are below the minimum wage if applicable for that type of employment or are below the prevailing wage normally paid in the community for that specific kind of employment.

(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.

(7) Personal illness or illness of another household or family member.

(8) A personal emergency.

~~(9) The person does not have adequate child care for children who need close supervision, particularly if the hours of employment or ETP 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) A required employment and training activity conflicts with scheduled hours of employment or a job interview.

~~(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(e)(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 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 PARTICIPATE IN AN AVAILABLE WORK-RELATED ACTIVITY, INCLUDING WORK-RELATED ACTIVITIES SPECIFIED ON THE AMR.

(4) FAILS TO ACCEPT REFERRAL TO, WORK IN, OR 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 MAINTAIN EMPLOYMENT.

(7) REDUCES EARNINGS ~~without good cause. This subsection includes a nonexempt individual who volunteers to participate.~~

(8) 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:

- (i) SUBSIDIZED EMPLOYMENT.
- (ii) WORK EXPERIENCE.
- (iii) ON-THE-JOB TRAINING.
- (iv) COMMUNITY SERVICE.
- (v) WORKFARE.
- (vi) JOB SEARCH, WHETHER INDEPENDENT OR ASSISTED, AND JOB READINESS AND JOB PREPARATION ACTIVITIES.
- (vii) VOCATIONAL EDUCATION TRAINING OR JOB SKILLS TRAINING.

(viii) 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) 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) 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.

(9) 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:

(i) UNSUBSIDIZED EMPLOYMENT.

(ii) SUBSIDIZED EMPLOYMENT.

(iii) WORK EXPERIENCE.

(iv) COMMUNITY SERVICE.

(v) ON-THE-JOB TRAINING.

(vi) WORKFARE.

(10) FAILS TO AGREE TO FULFILL RESET PARTICIPATION REQUIREMENTS.

(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, 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 INDIVIDUAL WHO 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 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 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 REDUCTION 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 WILL CONTINUE TO RECEIVE TANF DURING THE SANCTION PERIOD, IF OTHERWISE ELIGIBLE.

~~(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.~~

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Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 183. INCOME

INCOME

§ 183.13. Potential sources.

* * * * *

(b) A recipient of TANF, Extended TANF or GA who fails, without good cause, [fails] to cooperate with the CAO in [an effort to establish] establishing and maintaining eligibility for SSI, RSDI, TANF, Extended TANF, or other Federal [benefits shall have assistance terminated] programs is ineligible for cash assistance until the recipient complies. For Extended TANF and GA, if the recipient has received 60 months of TANF, the recipient's family is also ineligible until the recipient complies.

(c) An applicant for TANF, Extended TANF or GA who fails, without good cause, [fails] to cooperate in establishing eligibility for Federal [benefits shall be determined to be] programs is ineligible for cash assistance as follows:

(1) For [AFDC] TANF or Extended TANF, the applicant is [not eligible] ineligible until [he] the applicant complies.

(2) For GA, the applicant is [not eligible] ineligible for a minimum [period] of 60 days and thereafter, until [he] the applicant complies.

(3) For Extended TANF, the APPLICANT AND THE applicant's family is ARE also ineligible until the applicant complies.

(4) For GA, if the applicant has received 60 months of TANF, the applicant and the applicant's family are ineligible for a minimum of 60 days and thereafter until the applicant complies.

(d) An individual who is eligible for [AFDC] TANF or Extended TANF and SSI may choose to receive a benefit from one of [the two] these programs. The individual may not receive SSI and [AFDC] TANF or Extended TANF simultaneously.

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CHAPTER 187. SUPPORT FROM RELATIVES NOT LIVING WITH THE CLIENT

SUPPORT PROVISIONS FOR CASH ASSISTANCE

§ 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 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 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 OR RECIPIENT OF CASH ASSISTANCE, 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.

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§ 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.

(b) *PROVING THE GOOD CAUSE CLAIM.* THE APPLICANT OR RECIPIENT OF CASH ASSISTANCE SHALL PROVIDE RELEVANT VERIFICATION.

(1) A GOOD CAUSE CLAIM MAY BE 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 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 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 INDIVIDUAL.

(vii) *"DOMESTIC VIOLENCE VERIFICATION FORM."*
THE 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 GRANT GOOD CAUSE UPON WRITTEN CONSENT OF THE APPLICANT OR RECIPIENT 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 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 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 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 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 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.

(i) IF THE GOOD CAUSE WAIVER WAS GRANTED BASED ON VERIFICATION, NO ADDITIONAL VERIFICATION IS REQUIRED IF CIRCUMSTANCES HAVE NOT CHANGED SINCE APPROVAL OF THE INITIAL WAIVER.

(ii) IF THE GOOD CAUSE 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 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 AN INDIVIDUAL WITH DOMESTIC VIOLENCE TRAINING AND SUBSTANTIATED BY COMPLETION OF THE VERIFICATION OF GOOD CAUSE BASED ON THE DOMESTIC VIOLENCE FORM UNDER SUBPARAGRAPH (b)(1)(vii).

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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).

§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.

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PLEASE RETURN TO:
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**TRANSMITTAL SHEET FOR REGULATIONS SUBJ
REGULATORY REVIEW ACT**

I.D. NUMBER: 14-474
SUBJECT: Extended Temporary Assistance for Needy Families
AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

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

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/12	<i>Budresigtnes</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
	<i>Matthew McKinney</i>	
x	<i>Kyoko Kuyoon 8/12/02</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
	<i>Willy S. Love 8/12/02</i>	
8/12	<i>St. Belness</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU