

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 105, 125, 133, 140, 141, 145, 151, 153, 165, 177, 178, 181, 183 AND 187]
TANF Program

Statutory Authority

The Department of Public Welfare (Department) proposes to amend the regulations set forth in Annex A under the authority of sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)) (code); the Support Law (62 P. S. §§ 1971—1977); Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA) creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; section 5543 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33) (42 U.S.C.A. § 653(p); section 1902(a)(10)(A) and (C) of the Social Security Act, 42 U.S.C.A. § 1396a(a)(10)(A) and (C)); section 4372(b) of the Domestic Relations Code, 23 Pa. C.S. § 4372(b); and the Federal TANF regulations found in 45 CFR 260.10—265.10.

Purpose

The purpose of this rulemaking is to codify rules that implement a welfare reform program focused on moving needy families and individuals from dependency to work and self-sufficiency. This proposed rulemaking implements the TANF Program and provisions of State welfare reform, which could not be implemented under the predecessor Aid to Families with Dependent Children (AFDC) Program, as more fully described in this Preamble.

Background

Title I of the PRWORA, enacted on August 22, 1996, eliminated the AFDC Program under Part A of Title IV of the Social Security Act and replaced it with the TANF Program (42 U.S.C.A. §§ 601—619). Federal TANF regulations found in 45 CFR 260.10—265.10, which govern the TANF Program, became effective October 1, 1999.

The act of May 16, 1996 (P. L. 175, No. 35) (Act 35) amended certain sections of the code which govern eligibility for cash and Medical Assistance (MA) benefits. At the time Act 35 was enacted, some of the provisions could not be implemented in the AFDC Program without Federal approval because they were inconsistent with Federal statutes and regulations. Section 19 of Act 35 (62 P. S. § 403 note) directed the Department to seek these waivers of Federal law and regulations, or any other Federal approval, necessary to implement the provisions of Act 35. Section 20 of Act 35 (62 P. S. § 403 note) further directed the Department to implement changes upon receipt of Federal approval.

A request to waive certain Federal requirements was submitted to the appropriate Federal agencies, including the Department of Health and Human Services (DHHS). While the waiver request was pending, the PRWORA was enacted, eliminating the AFDC Program and replacing it with TANF.

With the enactment of the PRWORA, Federal waivers for Act 35 changes were no longer necessary. Having

already been given statutory authority to implement Act 35 changes by notice of rulemaking change (NORC), the Department proceeded to implement the provisions of both Act 35 and the PRWORA at the same time. In combination, they provided the framework for a complete and integrated Cash and MA Program for needy families. Consequently, these amendments were implemented by a NORC published at 27 Pa.B. 1092 (March 1, 1997), effective March 3, 1997, in accordance with the Joint Committee on Documents (JCD) Resolution 1996-1. In addition, these amendments reflect most of the Family Violence Option (FVO) provisions of the PRWORA as implemented by a NORC published at 30 Pa.B. 2957 (June 10, 2000), based on Federal TANF regulations found in 45 CFR 260.50—260.59.

Under the PRWORA, Federal approval to implement the provisions of State law applicable to TANF is obtained through acceptance of the Commonwealth's TANF State Plan and a determination by the Federal agency that the Commonwealth is eligible for block grant funding for its TANF Program. The Department submitted its initial TANF State Plan, published at 27 Pa.B. 342 (January 18, 1997) to the DHHS and was authorized to implement TANF effective March 3, 1997. An updated TANF State Plan, published at 29 Pa.B. 5658 (October 30, 1999), was submitted to the DHHS on November 1, 1999.

Section 22 of the act of December 16, 1997 (P. L. 549, No. 58) (Act 58) repealed sections 432.6, 432.7, 432.7A, 432.8, 432.9 and 432.11 of the code. Act 58 placed in 23 Pa.C.S. §§ 4371—4381 (relating to Title IV-D program and related matters) the substance of sections formerly found in the code and made amendments to these sections to conform to the PRWORA. The provisions requiring cooperation with the Child Support Enforcement Program established under Title IV-D of the Social Security Act (42 U.S.C.A. §§ 651—679a) as a condition of eligibility for the TANF Program and the General Assistance (GA) Program, are found in Act 58. Act 58 also amended 23 Pa.C.S. § 5103(c) (relating to the acknowledgment and claim of paternity) by removing the requirement that the signatures of the birth parents be notarized. Now, 23 Pa.C.S. § 5103(c) requires only that the signatures be witnessed and subject to the penalties for unsworn falsification to authorities. See 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). For a more in-depth discussion of the changes in child support cooperation requirements from Act 35 to Act 58, refer to Section I, Item 48, of this Preamble which outlines amendments to Chapter 187 (relating to support from relatives not living with the client). Act 58 also provides for a new support pass-through program which the Department implemented on October 1, 1998. See 23 Pa.C.S. § 4374 (relating to State disbursement unit).

Section 402(a)(7) of the Social Security Act (42 U.S.C.A. § 602(a)(7)), gives states the option to include in their TANF State Plan provisions to screen and identify victims of domestic violence, refer these individuals to counseling and supportive services, and waive certain program requirements for these individuals as needed. This option in the Federal statute is known as the FVO. Federal regulations governing this option are found in 45 CFR 260.50—260.59. Since the Commonwealth elected to implement the FVO, the approved TANF State Plan contains an optional certification that the Department will establish and enforce standards to screen and identify victims of domestic violence; refer those individuals to

counseling and supportive services; and waive, under a determination of good cause, other program requirements when compliance with those requirements would make it more difficult for individuals receiving assistance to escape domestic violence or unfairly penalize those individuals who are or have been victimized or individuals who are at risk of further violence.

In April 1997, the Secretary of the Department convened the Domestic Violence/ TANF Task Force to develop policies, procedures and strategies needed to implement the FVO. This task force is comprised of staff from the Department, the Pennsylvania Coalition Against Domestic Violence (PCADV), the Women's Law Project and other advocate groups. As a result of the collaborative efforts of the task force, a NORC was published at 30 Pa.B. 2957 (June 10, 2000) which revised the standards and process for establishing good cause and waiving child/spousal support requirements when the good cause claim is based on domestic violence. Although the FVO permits states to waive additional program requirements that may affect persons who are or have been victims of domestic violence, the task force concentrated its efforts on revising child support requirements when Federal child support regulations found in 45 CFR Part 232 (relating to contract financing), which had been the basis for child support regulations in this Commonwealth, were rescinded in December 1997. These revised requirements were implemented July 3, 2000, and are included in this proposed rulemaking. The Department is continuing to collaborate with the task force on the service plan provision as published in the NORC of June 10, 2000. The plan must be developed by a person with domestic violence training and be designed to lead to work to the extent that work is consistent with helping the individual achieve safety. This provision will be incorporated into a proposed rulemaking package to follow this proposed rulemaking.

Need for Proposed Rulemaking

The Department is required to comply with Federal and State law. This proposed rulemaking is needed for consistency between Department regulations and legislative changes and to have a complete and integrated Cash and MA Program for families.

Other changes in this proposed rulemaking include editorial corrections and changes needed to make TANF a complete Cash Assistance Program. Because the changes, both Federal and State, were so comprehensive, it is necessary to also change other provisions to make cash assistance regulations integrated and cohesive.

This proposed rulemaking supports the Department's comprehensive welfare reform plan that changes the direction of the public assistance program from one that fosters dependence on the system to one that promotes self-sufficiency through work. The over-riding principle embodied in the regulations is that assistance is temporary and must be seen as a transition to self-sufficiency. Amendments supporting the efforts of persons to become self-sufficient through employment include disregarding 50% of gross earned income and disregarding the value of one motor vehicle when determining eligibility. Implementing requirements that focus on moving needy families from dependence to self-sufficiency has an increased importance given the imposition of the Federally-mandated 5-year limit on receipt of TANF cash assistance.

This proposed rulemaking incorporates stringent work requirements and the Federal 60-month time limit on

receipt of TANF cash assistance. The proposed rulemaking reflects substantial revisions evincing the fundamental change in Federal and State law governing eligibility for cash assistance. With the passage of TANF and Act 35, individuals are required to work toward becoming self-sufficient as a condition of eligibility for cash assistance. Essential to assisting applicants and recipients in becoming self-sufficient is the establishment of the Road to Economic Self-Sufficiency through Employment and Training (RESET) Program. Among other requirements, RESET establishes minimum work requirements as conditions of eligibility for and continued receipt of cash assistance.

After 24 months of receiving cash assistance, recipients are required to work at least 20 hours per week, and more if they are able to do so. This minimum 20-hour-per-week work requirement is a threshold requirement for nonexempt individuals unless they establish good cause. However, if an individual has an opportunity to work more than 20 hours per week, but willfully, without good cause, fails to do so, that individual is subject to sanction under section 432.3(a)(iii) of the code (62 P. S. § 432.3(a)(iii)), for failure to "accept referral to and work in and retain employment in which the applicant or recipient is able to engage." Act 35 requires an individual to work at least 20 hours per week, and more, if possible, up to full-time employment or self-sufficiency. The Department refers to this requirement as "maximizing employment." This requirement to maximize employment is consistent with the goal of TANF and Act 35 that a recipient transition from dependency through increased employment to self-sufficiency in 60 months.

Moreover, nonexempt recipients who willfully, and without good cause, fail to comply with these requirements are subject to sanction, as RESET requires. Consistent with TANF and Act 35, recipients subject to sanction can minimize the duration of their sanction by demonstrating that they are willing to comply with RESET as soon as the minimum period expires. However, equally consistent with TANF and Act 35 is the notion that once a nonexempt recipient has willfully failed, without good cause, to comply with work or work-related requirements, he cannot stop the sanction from ever occurring by agreeing to comply before the Department imposes it. The Department revised § 165.51 (renamed "Compliance Review") to ensure that only willfully noncompliant recipients (without good cause for noncompliance) are sanctioned. The caseworker will develop a new AMR with those recipients who are not subject to sanction.

Provisions establishing exemptions based on hardship or domestic violence whereby certain recipients may continue to receive TANF beyond the 60-month limit prescribed by Federal law will be incorporated into a separate proposed rulemaking package which will follow this rulemaking.

Summary of Requirements

I. The following are regulations that apply to the TANF and GA Cash Assistance Programs:

A. The following revisions relating to the use and disclosure of information about applicants and recipients are being made to Chapter 105 (relating to safeguarding information):

1. *Sections 105.1(c)(3) and 105.3(g) (relating to policy; and requirements).* Section 105.1(c)(3) is revised and § 105.3(g) is added to provide that information may be released to law enforcement officers in accordance with Federal and State law. This information is generally

limited to an address but may include other identifying information which enables the State Police and Board of Probation and Parole to have access to the records of the Assistance Recipient Identification Program under section 414 of the code (62 P. S. § 414) within the Department to fulfill the objectives of section 414 of the code, as specified in § 105.4(c)(2) (relating to procedures). See 62 P. S. §§ 414 and 432(9); 42 U.S.C.A. § 608(a)(9)(B).

2. *Section 105.4(c)(1)*. This subsection and paragraph are added to specify that the Department may provide information to a Federal, State or local law enforcement officer regarding the address of a fugitive felon, parole or probation violator and the address of a person who may have information that the officer needs to conduct his official duties if the location or apprehension of the recipient is within his official duties. See 42 U.S.C.A. § 608(a)(9)(B).

Note: The NORC published at 27 Pa.B. 1092 provided an incorrect citation (§ 105.4(d)) for this requirement. The citation is correct as specified previously.

3. *Section 105.4(c)(2)*. This paragraph is added to specify that the Department will have access to the central repository within the State Police for purposes of identifying persons who have been sentenced for a felony or misdemeanor and have not satisfied the penalty imposed by law. The State Police and the Board of Probation and Parole will have access to the records of the Department's Assistance Recipient Identification Program (finger-imaging file to fulfill the objectives of section 414 of the code). See 62 P. S. §§ 414 and 432(9); 42 U.S.C.A. § 608(a)(9)(A).

Note: The NORC published at 27 Pa.B. 1092 provided an incorrect citation (§ 105.4(d)) for this requirement. The citation is correct as specified previously.

4. *Subsections 105.4(c)—(e) have been relettered (d)—(f) respectively as a result of the change to subsection (c)*.

B. The following revisions relating to applying for benefits are being made to Chapter 125 (relating to application process):

1. *Section 125.1(f) (relating to policy)*. This subsection is revised to specify that each applicant or recipient of cash assistance and other persons who are required to sign an application for assistance shall be required, as a condition of eligibility, to sign an Agreement of Mutual Responsibility (AMR) that is approved by the Department. The AMR includes the individual responsibilities and obligations to be undertaken by the recipient to achieve self-sufficiency, the time frames within which each obligation is to be completed, the penalties for failure to comply and the actions to be taken by the Department to support the efforts of the applicant or recipient. See 62 P. S. § 405.3(a); 42 U.S.C.A. § 608(b).

2. *Sections 125.1(f)(1)—(4), and 133.23(a)(1)(vi)(A), (B)(I)—(VI), (C) and (D)(I) and (II) (relating to requirements)*. These sections are added to specify the obligations of applicants and recipients for the receipt of benefits. These individuals are obligated to remain free of illegal drugs and alcohol if substance abuse is determined to be a barrier to employment. Those persons must participate in, maintain compliance with and satisfactorily complete an approved drug and alcohol treatment program. Applicants and recipients are also obligated to provide timely and accurate information; cooperate in establishing paternity and obtaining support; seek and participate in an educational program leading to a high school diploma or its equivalent, approved job training or work-related activities; and seek, accept, maximize and

maintain employment, accept referral to, participate in and continue to participate in an available work or work-related activity, whichever is applicable, including those specified on the AMR, and not reduce earnings. See 62 P. S. §§ 405.1(a.2), 405.3 and 432.3.

A person who is required to sign an application for assistance and fails or refuses to complete and sign an AMR without good cause is ineligible for assistance until the person completes and signs the approved AMR. Failure to cooperate with child support requirements will result in penalties described in § 141.21(e). Failure to comply with work or work-related requirements, whichever are applicable, will result in the penalties described in § 165.61 (relating to sanctions).

3. *Section 125.1(g)*. This subsection contains the provision formerly found in § 125.1(f) relating to applicant notices regarding eligibility.

C. The following revision relating to the treatment of earned and unearned income is being made to Chapter 133 (relating to redetermining eligibility):

1. *Section 133.23(a)(1)(i)(A)*. Clause (A) is deleted. The income of a recipient will no longer be subject to the gross income eligibility limit (185% test). Application of this test to recipients was eliminated to provide an incentive for recipients to accept and retain employment. The gross income test applies to applicants only.

D. The following revisions relating to general eligibility requirements for the TANF and GA programs are being made to Chapter 141 (relating to general eligibility provisions):

1. *Section 141.1(b)(5) (relating to policy)*. This paragraph is deleted because the provision that permits a specified relative of the only dependent child in the budget group to continue to receive cash assistance when the child is under a sanction is no longer consistent with State law. State law requires that when a disqualification occurs after a person has received cash assistance for more than 24 months, the disqualification is imposed on the entire budget group. See 62 P. S. § 432.3(a)(1) and (2) and (b).

2. *Section 141.21(e) (relating to policy)*. This subsection is revised. No protective payment will be imposed. Act 58 removed this requirement. Failure to cooperate in establishing paternity or obtaining support without good cause will result in a reduction of the cash assistance allowance by 25%. See 23 Pa.C.S. § 4380(b)(2) (relating to enforcement of cooperation requirements).

Note: The NORC published at 27 Pa.B. 1092 provided an incorrect citation (§ 141.21) for this requirement. The citation is correct as specified previously.

3. *Section 141.21(s)*. This subsection is revised to delete the specific reference to GA applicants or recipients, as the provision applies to all categories of cash assistance. An applicant or recipient of GA or TANF who has been convicted of violating section 481(a) of the code (62 P. S. § 481(a)), a crime commonly referred to as welfare fraud, is ineligible for cash assistance for 6 months from the date of a first conviction, 12 months from the date of a second conviction and permanently from the date of a third conviction. See 62 P. S. § 481(f).

4. *Section 141.21(t)*. This subsection is amended because § 141.21(s) as amended (see No. 3 above) makes the provision of § 141.21(t), which applies to TANF applicants or recipients, redundant and unnecessary.

This subsection is amended to specify that a person is ineligible for assistance if the person is fleeing to avoid

prosecution, or custody or confinement following conviction for a felony, or as felonies are classified in the State of New Jersey, a high misdemeanor. See 62 P. S. § 403(b); 42 U.S.C.A. § 608(a)(9).

5. *Section 141.21(u)*. This subsection is added to specify that cash assistance payments will not be made to a person for 10 years from the date of conviction, in a Federal or State court, of fraudulent misrepresentation of residence to receive TANF, GA, MA, Food Stamps or SSI simultaneously in two or more states. See 62 P. S. § 403(b); 42 U.S.C.A. § 608(a)(8).

6. *Sections 141.41(e) and 141.61(a)(1)(xv) (relating to policy)*. These provisions are added to specify that cash assistance applicants and recipients must, among other requirements specified in these sections, agree to seek employment, accept any bona fide offer of employment, and maximize and maintain employment as a condition of eligibility unless they are exempt (such as, by reason of a verified disability). Refer to section 405.1(a.3) of the code (62 P. S. § 405.1(a.3)) for specific exemptions. For the first 24 months of receipt of cash assistance, whether continuous or interrupted, nonexempt applicants and recipients who are not employed for an average of 20 hours per week must participate in an available and approved work-related activity as a condition of eligibility for cash assistance. After the first 24 months of receipt of cash assistance, whether receipt is continuous or interrupted, nonexempt recipients must participate in unsubsidized employment, subsidized employment, work experience, on-the-job training, community service or workfare for at least 20 hours a week, averaged monthly. See 62 P. S. §§ 405.1(a.2), 405.3 and 432.3.

E. The following revisions relating to the deprivation of a TANF child due to the absence or unemployment of a parent are being made to Chapter 153 (relating to deprivation of support or care):

1. *Section 153.42 (relating to definitions)*. This section is revised to add the definition of "cash assistance allowance," a term which is used in Act 58 but not defined at 23 Pa.C.S. § 4380 (relating to enforcement of cooperation requirements).

2. *Section 153.44(a)(1) (relating to procedures)*. This paragraph is deleted since it addresses a now obsolete requirement under the AFDC Program.

3. *Section 153.44(a)(2)*. This paragraph is revised to delete a sentence that relates to the deleted material in § 153.44(a)(1).

4. *Section 153.44(a)(3)*. This paragraph is revised to delete an obsolete reference to a section within Chapter 187.

5. *Section 153.44(a)(11)*. This paragraph is revised to include a reference to a putative father as an individual from whom support must be sought in accordance with support requirements outlined in Chapter 187.

6. *Section 153.44(b)(2)(i)(A)*. This clause is amended to correct the cross reference to a section that has been revised within Chapter 187.

7. *Section 153.44(b)(2)(i)(C)*. Based upon Act 58, this clause is revised to specify that the penalty imposed for noncooperation is now a reduction in the cash assistance allowance by 25%. No protective payment will be imposed. Act 58 removed this requirement. See 23 Pa.C.S. § 4380.

8. *Section 153.44(d)(1)(vi)*. This subparagraph is deleted because the provision that provides for a penalty to

be imposed against both parents in a household is no longer applicable. State law now provides that, during the first 24 months that assistance is received, a penalty is imposed only on the person who commits the violation. After the receipt of 24 months of benefits, a penalty is imposed on the entire household if the county assistance office (CAO) determines that the violation is willful and without good cause. See 62 P. S. § 432.3(a)(1) and (2) and (b).

9. *Section 153.44(e)(1)(i)*. This subparagraph is revised to delete the obsolete form number. The Acknowledgment of Paternity Form is now Form PA/CS 611.

10. *Section 153.44(e)(1)(i)(A)*. This clause is revised to delete the requirement that the signatures of both the putative father and the mother that appear on the Acknowledgment of Paternity Form must be notarized. In accordance with Act 58, the provision that the signatures need only be witnessed by a third party is added. See 23 Pa.C.S. § 5103(c) (relating to acknowledgment and claim of paternity).

11. *Section 153.44(e)(1)(i)(B)*. Based upon Act 58, this clause is revised to delete the word "notarized" since the Acknowledgment of Paternity Form no longer must be notarized prior to sending it to the Bureau of Child Support Enforcement. See 23 Pa.C.S. § 5103(c).

F. The following revisions relating to work requirements, conditions of eligibility for cash assistance, compliance review, good cause, penalties and notifications are being made to Chapter 165 including a change in the chapter title from "Employment and Training Program" to "Road to Economic Self-Sufficiency Through Employment and Training (RESET) Program":

1. *Section 165.1(a) (relating to general)*. This subsection is revised to delete the reference to the Employment and Training Program (ETP) and replace it with a reference to the RESET Program as specified in State law. A provision is added that requires all nonexempt applicants to agree to comply with the requirements of RESET and all nonexempt recipients, among other requirements, to participate in RESET and to seek employment, accept any bona fide offer of employment and maximize and maintain employment. This subsection is also revised to remove the statement that gives priority for services to volunteers for the program. The setting of those priorities is no longer appropriate because all nonexempt recipients are required by State law to participate in activities that promote self-sufficiency. The Department wants to assure that there are sufficient resources to serve those individuals. See 62 P. S. §§ 405.1, 405.2, 405.3 and 432.3.

2. *Section 165.1(b)*. This subsection is revised to delete the reference to the ETP and replace it with the phrase, "The Department." This change broadens the Department's role to provide case management and identify resources.

3. *Section 165.2 (relating to definitions)*. This section is revised to delete the obsolete term "EDP—Employment Development Plan" and to replace it with the term "AMR—Agreement of Mutual Responsibility." The work and work-related activities of RESET are now included in the AMR. This section is also revised to add the definitions of "RESET—Road to economic self-sufficiency through employment and training," "bona fide offer of employment," "grant diversion" and "maximize employment" and to delete the definition of "ETP—Employment and Training Program." See 62 P. S. §§ 402, 405.1(a.4)(3)(c)(1)—(4), 405.3 and 432.3.

4. *Section 165.11 (relating to verification of exemption)*. This section is reserved. The information relating to verification of exemptions which was previously found in this section has been relocated to § 165.22 (relating to verification of exemption) and amended as described in the discussion of § 165.22.

5. *Section 165.21(c)(1) (relating to enrollment)*. This paragraph is revised to specify that a mental or physical disability does not provide for an automatic exemption from the RESET Program. State law requires that to be exempt from RESET due to a physical or mental disability, the disability must temporarily or permanently preclude any form of employment or work-related activity. See 62 P. S. § 405.1(a.3)(1).

6. *Section 165.21(c)(1)(i)*. This subparagraph is revised to remove the reference to licensed midwife as a source of verification of the period of recuperation after childbirth because State law permits disability to be verified only by a physician or psychologist. See 62 P. S. § 405.1(a.3)(1).

7. *Section 165.21(c)(1)(iii)*. This subparagraph is added to require an applicant or recipient with a verified mental or physical disability, including drug or alcohol dependency, to pursue appropriate treatment to restore or improve the individual's ability to work as a condition of receiving assistance if the individual is exempt from the RESET Program. See 62 P. S. § 405.1(a.3)(1).

8. *Section 165.21(c)(1)(iv)*. This subparagraph is added to reflect the Department's authority to require an applicant or recipient to submit to an independent examination as a condition of receiving assistance if the individual is exempt from the RESET Program. See 62 P. S. § 405.1(a.3)(1).

9. *Section 165.21(c)(2)–(4)*. The exemptions previously found in these paragraphs are deleted because their content contained exemption criteria which have been altered by State law. Therefore, persons 60 years of age or older, persons incapacitated due to drug or alcohol dependency and persons needed in the home because of the illness or incapacity of another household member are no longer automatically exempt from participation in RESET. However, those persons have the opportunity in accordance with § 165.52 (relating to good cause) to establish good cause for not meeting a work requirement. See 62 P. S. § 405.1(a.3)(1)–(3).

10. *Section 165.21(c)(5)*. This paragraph is renumbered (2) and revised to provide an exemption for a parent or other caretaker who is personally providing care for a child under 6 years of age for whom alternate child care arrangements are not available. See 62 P. S. § 405.1(a.3)(2).

11. *Sections 165.21(c)(6) and (7)*. The exemptions described in these paragraphs are deleted because State law has changed the exemption criteria for the RESET Program. Therefore, parents or other caretakers personally providing care for a child 3 years of age or older and 5 years of age or younger unless appropriate child care is guaranteed and persons working at least 30 hours per week are no longer exempt from participation in the RESET Program for these reasons. See 62 P. S. § 405.1(a.3).

12. *Section 165.21(c)(8)*. This paragraph is renumbered (3) and is revised to provide an exemption from participation in the RESET Program for a child under age 18. If the child is of school age, he must be pursuing education leading to a high school diploma or certificate of high school equivalency. See 62 P. S. § 405.1(a.3)(3).

13. *Section 165.21(c)(9)*. The exemption described in this paragraph is deleted because State law has changed the exemption criteria for the RESET Program. Therefore, a pregnant woman is no longer exempt from participation in RESET unless it can be appropriately documented that her pregnancy incapacitates her to the extent that she is precluded from any form of employment. This paragraph is also renumbered (4) and provides a new exemption for a 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. See 62 P. S. § 405.1(a.3)(1); 42 U.S.C.A. § 607(b)(5).

14. *Sections 165.21(c)(10) and (11)*. The exemptions described in these paragraphs are deleted because State law has changed the exemption criteria for the RESET Program. Therefore, persons serving full-time in the Volunteers In Service To America (VISTA) Program and persons residing more than 2 hours round trip from a RESET site are no longer exempt from participation in RESET. See 62 P. S. § 405.1(a.3)(1).

15. *Section 165.21(d)*. This subsection is deleted because State law has changed the participation requirements for the RESET Program. Therefore, the provision requiring a custodial parent between 16 and 20 years of age to participate in the RESET Program is no longer applicable and is being removed. See 62 P. S. § 405.1(a.3)(1) and (2).

16. *Section 165.22(a) (relating to verification of exemption)*. This subsection is added to provide that cooperation requirements for providing information about and verification of exempt status apply to applicants as well as to recipients and that the CAO will help to obtain verification of an exemption when needed. See 62 P. S. § 405.1(a.3).

17. *Section 165.22(a)(1)*. This paragraph is added to specify that the Department may require an applicant or recipient claiming an exemption from work requirements based on a physical or mental disability to submit to an independent examination as a condition of receiving assistance if exempt under the RESET Program. See 62 P. S. § 405.1(a.3).

18. *Section 165.22(a)(2)*. This paragraph is added to require an applicant or recipient with a verified physical or mental disability which temporarily precludes any form of employment to pursue appropriate treatment to restore or improve the individual's ability to work as a condition of receiving assistance if exempt under the RESET Program. See 62 P. S. § 405.1(a.3)(1).

19. *Section 165.22(b)*. This subsection is added to clarify how an exemption from RESET can be verified and the consequences of failure to verify the basis for an exemption. See 62 P. S. § 405.1(a.3)(1).

20. *Section 165.25 (relating to enrollment after an exemption)*. This section is added to clarify how quickly a person who was formerly exempt from the RESET Program is required to participate in work or a work-related activity when the exemption ends. See 62 P. S. § 405.1(a.4).

21. *Section 165.25(1)(i) and (ii)*. This section added to provide that an individual who is exempt from participation in the RESET Program due to a physical or mental disability is required to participate immediately if the condition ceases within the first 22 months that the person receives cash assistance or within 8 weeks if the condition ceases after the person has received cash assist-

ance for 22 months or more, as required by State law. See 62 P. S. § 405.1(a.4)(1)(i) and (ii).

22. *Section 165.25(2)*. This paragraph is added to specify that a person who is exempt from participation in the RESET Program due to providing care for a child under age 6 is required to participate as soon as alternate child care arrangements become available or when the child reaches age 6, whichever occurs first, as required by State law. See 62 P. S. § 405.1(a.4)(2).

23. *Section 165.25(3)(i)–(iii)*. This paragraph and subparagraphs are added to specify that an individual who is under 18 years of age is required to participate in the RESET Program upon reaching 18 years of age, attaining a high school diploma or a certificate of high school equivalency or ceasing to pursue a high school diploma or a certificate of high school equivalency. Paragraph (3)(i) further defines that a client who reaches age 18 may continue to pursue a high school or equivalency program after age 18 as a work-related activity during the first 24 months of receipt of cash assistance. Additionally, if under age 22, the individual may have good cause for not meeting the 20-hour work requirement after 24 months while working to complete a high school or equivalency program for at least 20 hours per week. See 62 P. S. § 405.1(a.4)(3).

24. *Section 165.25(4)(i)–(iii)*. This paragraph and subparagraphs are added to specify that a custodial parent in a one-parent household who is exempt from participation in the RESET Program due to caring for a child under 12 months of age is required to participate when the child reaches 12 months of age, when the custodial parent has claimed the exemption for the maximum 12-month period in the parent's life-time, or if the custodial parent chooses not to claim this exemption. See 42 U.S.C.A. § 607(b)(5).

25. *Section 165.31(a) (relating to RESET participation requirements)*. The provisions previously found in this subsection relating to voluntary participation by persons who are exempt have been deleted, except the provision that exempt individuals may volunteer to participate in RESET is relocated to subsection (h). See 62 P. S. § 405.1(a.1).

26. *Section 165.31(b)*. The provisions previously found in this subsection relating to voluntary participation by persons who are nonexempt are revised and relocated to subsection (g).

27. *Section 165.31(c)*. The previous content of this subsection which concerned priority of educational activities for custodial parents is deleted. This subsection, now (b) contains RESET participation requirements that apply to all nonexempt individuals. Among other requirements, those individuals are required to seek and accept any bona fide offer of employment and maximize and maintain employment as a condition of eligibility or continuing eligibility for cash assistance. See 62 P. S. §§ 405.1 (a.2), 405.4 and 432.3.

28. *Section 165.31(d)*. The provisions previously found in this subsection relating to the EDP are revised and relocated to subsection (e). The requirements that apply in the first 24 months that a nonexempt individual is receiving cash assistance are added. These requirements are in addition to those in subsection (b). See 62 P. S. § 405.1(a.2)(2)

29. *Section 165.31(c)(1)*. This paragraph is added to specify that the initial work-related activity is an initial job search of up to 8 weeks, except for those 18 years of

age or older but under 22 years of age who are pursuing a high school diploma or its equivalent. See 62 P. S. § 405.1(a.2)(3).

30. *Section 165.31(c)(1)(i)*. This subparagraph is added to clarify that for applicants, the initial job search is required upon authorization of cash assistance. See 62 P. S. § 405.1(a.2)(3).

31. *Section 165.31(c)(1)(iii)*. This subparagraph is added to clarify that individuals must document job search efforts and present that documentation to the CAO upon request. Failure to comply with the requirements of this section, without good cause, shall result in sanctions under § 165.61 (relating to sanctions). See 62 P. S. §§ 405.1(a.2)(3) and 432.3.

32. *Section 165.31(c)(2)(i)–(xi)*. This paragraph and subparagraphs are added to list the activities which, after the initial job search, a recipient may participate in to fulfill the work-related activity requirement, if approved, during the first 24 months, whether consecutive or interrupted, that a recipient receives cash assistance. According to State law, the activities are subsidized employment, work experience, on-the-job training, community service, workfare, vocational education, general education, English-as-a-second-language, job skills training, job search and job readiness/ preparation activities subject to the limits found in subsection (c)(3) and (4). See 62 P. S. §§ 402, 405.1(a.2)(5) and 405.3.

33. *Section 165.31(c)(3)*. This paragraph is added to specify that participation in approved vocational education, general education, English-as-a-second-language and job skills meets the work-related activity requirement for a maximum of 12 months, whether consecutive or interrupted, during the first 24 months that an individual receives cash assistance. See 62 P. S. § 405.1(a.2)(5).

34. *Section 165.31(c)(4)*. This paragraph is added to permit recipients who are 18 years of age or older but under 22 years of age who do not have a high school diploma or its equivalent to fulfill the work-related activity requirement by pursuing a high school diploma or its equivalent. See 62 P. S. § 405.1(a.2)(5).

35. *Section 165.31(d)(1)–(6)*. These provisions are added to list the approvable work activities in which nonexempt recipients, after receiving cash assistance for 24 months, whether or not the months are consecutive or interrupted, must participate to fulfill the work requirement. Participating in an available work activity for an average of at least 20 hours per week in any one or a combination of the following activities is required by State law: unsubsidized employment, subsidized employment, work experience, community service, on-the-job training or workfare. Willful failure to comply with this section shall result in the imposition of sanctions under § 165.61 unless good cause for noncompliance is established. See 62 P. S. §§ 405.1 (a.2)(6), 405.3 and 432.3.

36. *Section 165.31(d)*. The provisions, previously found in this subsection, relating to the self-initiated education and training are relocated to subsection (f). The requirements that apply to nonexempt individuals who have received cash assistance benefits for more than 24 months are added. See 62 P. S. § 405.1(a.2)(6).

37. *Section 165.31(e)*. The provisions of this subsection are relocated from subsection (d) and revised to refer to the AMR which has replaced the EDP used in the AFDC Program. Final approval of the work, training and education activities listed on the AMR rests with the Department. The AMR is not considered a contract.

38. *Section 165.31(f)*. The provisions of this subsection are relocated from subsection (e) and revised to delete the reference to EDP and replace it with a reference to the AMR. See 62 P. S. § 405.3.

39. *Section 165.31(f)(4)*. This paragraph is added to specify that after 12 months of participation in any self-initiated education or training activity as specified in subsection (f), nonexempt individuals must also fulfill the work-related activity requirements as specified in subsections (a) and (b) during the first 24 months of receiving cash assistance. See 62 P. S. § 405.1(a.2)(5).

40. *Section 165.31(f)(5)*. This paragraph is added to specify that after receiving cash assistance for 24 months, individuals participating in self-initiated activities as specified in subsection (f) must also fulfill the work requirements as specified in subsection (d). See 62 P. S. § 405.1(a.2)(6).

41. *Section 165.31(g)*. This provision relating to voluntary participation has been relocated from subsection (a). This subsection also provides that exempt volunteers are not required to conduct an initial job search before enrolling in RESET. The rest of the provision is deleted. See 62 P. S. § 405.1(a.4)(3)(b).

42. *Sections 165.51(a)–(c)*. Subsections (a) and (b) are revised and subsection (c) is added. These subsections clarify that information indicating noncompliance will result in a partial review of eligibility that focuses on compliance with work requirements. This review is renamed “Compliance Review.” In a compliance review, a recipient who apparently is not complying with work or work-related requirements has an opportunity to establish that the recipient has been compliant, or if noncompliant, that the noncompliance was not willful and without good cause. Although this represents changes to the process formerly called “conciliation,” by defining its primary purpose and procedure as a determination of facts surrounding an recipient’s apparent noncompliance, this change is entirely consistent with TANF and Act 35. In fact, the former regulation is directly at odds with TANF and Act 35, which require imposition of a penalty for willful failure to comply with work/work-related requirements unless the recipient is exempt or establishes good cause for noncompliance.

As revised, the compliance review is designed to ensure that a sanction is not imposed unless the recipient has willfully, and without good cause, failed to comply with work/work-related requirements. The compliance review may be conducted in person or by telephone, according to the recipient’s preference. If a sanction is not imposed, the caseworker will develop a new AMR with the recipient, if necessary, and review program requirements. The Department implemented this change in policy in the March 1, 1997, NORC. Therefore, the revised section reflects the Department’s policy and practice since that time. These subsections are also revised to delete the reference to the EDP and replace it with reference to the AMR. See 62 P. S. §§ 405.1, 405.2, 405.3 and 432.3.

43. *Section 165.61(a) (relating to sanctions)*. This subsection is revised to add that the willful failure of a nonexempt recipient to cooperate, without good cause, in fulfilling the work or work-related activity requirements specified in the AMR or statutory work or work-related requirements even when those requirements are not specified in the AMR, will result in a sanction. This subsection incorporates the requirements found in 62 P. S. §§ 405.1, 405.3 and 432.3.

44. *Section 165.61(b)*. The requirements previously found in this subsection have been redesignated as

subsection (e), relating to the caretaker continuing to receive benefits when the only TANF child in the budget group is under sanction. This subsection now contains the periods of sanction for failure to cooperate with the requirements of the RESET Program, as required by State law. For the first occurrence, the sanction is 30 days or until the recipient is willing to comply, whichever is longer. For the second occurrence, the sanction is 60 days or until the recipient is willing to comply, whichever is longer. For the third occurrence, the sanction is permanent. See 62 P. S. § 432.3(a)(1) and (2); 42 U.S.C.A. § 607(e)(1).

45. *Section 165.61(c)(1) and (2)*. The provision that both parents would be sanctioned if one parent fails to enroll in or participate in the RESET Program is deleted because State law has changed the sanction requirements. Paragraphs are added to specify the applicability of sanctions as required by State law. During the first 24 months that assistance is received, the sanction is imposed only on the person who fails to comply. After 24 months, the sanction is imposed on the entire budget group. See 62 P. S. § 432.3(a)(1) and (2) and (b); 42 U.S.C.A. § 607(e)(1).

46. *Sections 165.61(d)*. The requirements previously found in this subsection have been redesignated as subsection (b), relating to sanction periods. This subsection now contains the provision that, in lieu of the durational sanctions listed in subsection (b) and subsection (c)(1) and (2), the grant of a budget group will be reduced if an employed member of the budget group voluntarily and 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 reduction will be 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. The reduction continues until the minimum 20-hour-per-week work requirement is met. See 62 P. S. § 432.3(a)(1) and (2) and (b).

47. *Section 165.61(e)*. The requirements previously found in this subsection have been redesignated as subsection (f), relating to protective payee payments. Regulations are added regarding the caretaker continuing to receive benefits when the only TANF child in the budget group is under sanction. See 62 P. S. § 432.3(a)(2).

48. *Section 165.61(f)*. The provisions of this subsection are relocated from subsection (e) and revised to clarify that if an individual under sanction during the first 24 months of cash assistance is a parent or other caretaker, protective payments for the remaining budget group members will be made to the caretaker under sanction.

49. *Section 165.71(b)*. This subsection is revised to delete the 3-month time frame for sending a reminder letter to an individual under sanction as the Department now provides that clients receive notification prior to the end of the minimum durational sanction period.

G. The following revisions relating to resources are being made to Chapter 177 (relating to resources):

1. *Section 177.21(a)(2) (relating to personal property)*. This paragraph is revised to specify that the full value of one automobile per TANF or GA budget group is excluded as a resource. The equity value of all other vehicles is counted and applied toward the resource limit applicable to the budget group. See 62 P. S. § 432.5(c)(4).

2. *Section 177.21(a)(11)*. A phrase is added to this paragraph to specify that funds withdrawn from education savings accounts shall be used to pay for education expenses.

Note: That the NORC, published at 27 Pa.B. 1092, announced that education savings accounts would be exempt as individual development accounts (IDAs) under TANF as long as contributions were from earned income only. In these regulations, education savings accounts are exempt if they meet the requirements of State law, see 62 P. S. § 408.2(a), which does not require that the contributions to the account come from earned income. After careful analysis of the option to exempt IDAs permitted under the PRWORA, the Department has decided not to implement this option. The requirements for implementation as specified in section 404(h) of the PRWORA are complex, restrictive and not beneficial to clients.

3. *Section 177.21(a)(11)(iii)*. This subparagraph is revised to clarify that only moneys withdrawn to pay for educational expenses are exempt. See 62 P. S. § 408.2.

4. *Section 177.21(a)(13)*. This paragraph is added to specify that student financial assistance in the form of loans, grants and scholarships is excluded as a resource.

5. *Section 177.21(a)(14)*. This paragraph is added to specify that the face and cash value of a life insurance policy is exempt from consideration as a resource.

6. *Section 177.21(a)(15)*. This paragraph is added to specify that Family Savings Accounts established under the Job Enhancement Act (73 P. S. §§ 400.2101—400.2103), are exempt from consideration as a resource. This exemption was not included in the NORC published at 27 Pa.B. 1092 and, consequently, will not be effective retroactively. It will be effective upon publication.

7. *Section 177.22(b)(3)(ii)*. This subparagraph is revised to specify that in cases where a budget group has been unable to sell nonresident property for reasons beyond their control, the 9-month time limit for disposing of property is extended for additional 9-month periods as long as the budget group is making a good-faith effort to sell the property.

8. *Section 177.22(b)(4)*. This paragraph is revised to clarify that the budget group is ineligible for cash assistance if it cannot substantiate for each 9-month exemption period that it has made or is making a good-faith effort to sell the nonresident real property.

9. *Section 177.24(1)(ii), (A) and (B)*. This subparagraph and clauses are deleted because they relate to life insurance which is now excluded as a resource.

H. The following revisions relating to the treatment of earned and unearned income are being made to Chapter 183 (relating to income):

1. *Section 183.23 (relating to income in-kind)*. This section is deleted and reserved. Income-in-kind for services rendered is now excluded when determining eligibility and payment amount. See 62 P. S. § 401(a).

2. *Section 183.38 (relating to educational assistance)*. This section is revised to clarify that Federally-funded student financial assistance, including college work-study income, is excluded as income. This section is also revised to clarify that all other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income unless the assistance is provided solely to meet basic living needs. See 62 P. S. § 401(a).

3. *Section 183.71 (relating to gross income test)*. This section is revised to specify that the income of a recipient will no longer be subject to the gross income eligibility limit (185% test). This test applies to applicants only.

4. *Section 183.81(3)(i)*. The provisions of this subparagraph are deleted and replaced by the provision that Federally-funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants or scholarships is excluded as income unless the assistance is provided solely to meet basic living needs.

5. *Sections 183.81(3)(iii) and (iv)*. These subparagraphs are deleted as unnecessary and duplicative.

6. *Section 183.81(29)*. The support pass-through disregard as codified in § 183.81(29) is reinstated as amended by Act 58. Former section 432.7(g) of the code specified that the Department continue payment of support pass-through payments to cash assistance recipients as required by Federal law. There was no Departmental regulation that required payment of the support pass-through. Section 183.81(29) required the Department to disregard receipt of up to the first \$50 per budget month of current court-ordered or voluntary support. The PRWORA, enacted on August 22, 1996, eliminated the Federal requirement to pay the support pass-through. As a result, the Department announced its intention to discontinue payment of the support pass-through with publication of a NORC, which was effective March 3, 1997. See 27 Pa.B. 1092. At that time, the Department announced it would delete § 183.81(29) as well. On April 1, 1997, a lawsuit, *Success Against All Odds, et al. v. Department of Public Welfare*, 700 A.2d 1340 (Pa. Cmlth. 1997), was filed in Commonwealth Court challenging the Department's cessation of the support pass-through. Effective May 1, 1997, the Commonwealth Court ordered the Department to reinstate the support pass-through payment and income disregard pending a determination on the merits. On August 20, 1997, Commonwealth Court ruled that the Department was acting within its statutory mandate when it discontinued support pass-through payments. Plaintiffs appealed to the Pennsylvania Supreme Court. Pass-through payments were then discontinued effective November 1, 1997. On November 13, 1997, the Pennsylvania Supreme Court entered an order, staying the August 20, 1997, Commonwealth Court Order, requiring the Department to resume support pass-through payments and the income disregard pending further order of that Court. *Success Against All Odds et al. v. DPW*, No. 122 M.D. Appeal Dkt. 1997. Effective December 1, 1997, support pass-through payments were again issued to cash assistance recipients and the income was disregarded for eligibility purposes.

Act 58, enacted on December 16, 1997, added 23 Pa.C.S. § 4374(c)(1)(ii) (relating to State disbursement unit) to require the Department to first, pay to the Federal government the Federal share of current support collected, and then, from the amount remaining, pass through to the budget group the first \$50 per month of current support collected without decreasing the amount of cash assistance.

Effective January 1, 1998, Act 58 also repealed section 432.7(g) of the code (62 P. S. § 432.7(g)), the statutory provision upon which the litigation was founded. However, the pass-through requirement under Act 58 was temporarily suspended because of the stay entered by the Pennsylvania Supreme Court on November 13, 1997. On

May 20, 1998, the Pennsylvania Supreme Court affirmed Commonwealth Court's ruling of August 20, 1997, thereby ending the stay.

The Department implemented the new Support Pass-Through Program mandated by Act 58 on October 1, 1998.

I. The following revisions relating to Chapter 187 reflect the changes announced by the NORC and further amended by Act 58. Additionally, the chapter regulations, as appropriate, are reorganized into logical sequence and procedures are eliminated:

1. *Section 187.21 (relating to general policy)*. This section includes the text of the former subsection (a). This section is amended to set forth the policy that the Department grants assistance only to persons who apply for and meet all conditions of eligibility. This section is also amended to set forth the policy for the referral of persons who do not receive assistance but wish to receive child support enforcement services that had been provided in § 187.24(c) (relating procedures). A reference to 23 Pa.C.S. §§ 4301—5104 and 7101—8415 and 62 P.S. §§ 101—1503 and §§ 1971—1977 was added.

2. *Section 187.21(b)*. This subsection is deleted because the requirement concerning the automatic assignment of support rights to the Department is in § 187.23(e) (relating to requirements).

3. *Section 187.21(c)*. This subsection is deleted because it relates to procedures, and the Bureau of Claim Settlement Child Support Unit no longer exists. The Bureau of Child Support Enforcement is the State agency responsible for the administration of Pennsylvania's Support Enforcement Program under Title IV-D of the Social Security Act and State law. See 42 U.S.C.A. §§ 651—669b; 23 Pa.C.S. § 4372(a). The deleted procedural information is appropriately delineated in the Department's *Cash Assistance Handbook*, Chapter 131, Support.

4. *Section 187.21(d)*. This subsection is deleted because it relates to procedures. The procedures regarding the effect of automatic support assignment are appropriately delineated in the Department's *Cash Assistance Handbook*, Chapter 131, Support.

5. *Section 187.21(e)*. This subsection is deleted because it relates to procedures. The procedures regarding the treatment of support collections and CAO responsibilities are appropriately delineated in the Department's *Cash Assistance Handbook*, Chapter 131, Support and Chapter 150, Income.

6. *Section 187.21(f)*. This subsection is deleted because it relates to procedures. The procedures regarding the timing of the effect of the assignment of support and the interchange of information about support collections and the cash assistance eligibility determination are appropriately delineated in the Department's *Cash Assistance Handbook*, Chapter 131, Support and Chapter 150, Income.

7. *Section 187.21(g)*. This subsection is deleted because it relates to procedures. The procedures regarding the Child Support Action Notice and the interchange of cash assistance information from the CAO to the Child Support Unit, and the responsibilities of the Bureau of Child Support Enforcement are delineated in the Department's *Cash Assistance Handbook*, Chapter 131, Support.

8. *Section 187.22 (relating to definitions)*. This section is amended to delete the definitions of "alimony," "child born out-of-wedlock," "LRR—legally responsible relative" and "spouse" because the terms are either not used or are

clarified in the new definitions. The procedures regarding paternity establishment are deleted and delineated in the Department's *Cash Assistance Handbook*, Chapter 131, Support. The term "alimony" is not used in the chapter; instead, the term "support" is added based upon Act 58's definition of "order of support." The terms "child" and "child born out-of-wedlock" are not used in the chapter. The term "spouse" is included in the redefined term "LRR—legally responsible relatives." The definitions of "arrears," "budget group," "BDSE—Bureau of Child Support Enforcement," "cash assistance allowance" (Act 58 change), "CAO—County assistance office," "Department," "DRS—Domestic Relations Section," "establishing paternity," "LRR—legally responsible relative," "obtaining support" and "unemancipated minor child" are added.

Pennsylvania case law establishes that a parent is liable for the support of his child until the child reaches age 18 or graduates from high school, whichever occurs later. *Blue v. Blue*, 532 Pa. 521, 616 A.2d 628 (1992). A "minor" is defined as "an individual under the age of twenty-one (21) years." See 1 Pa.C.S. § 1991 (relating to definitions). Thus, the outside age limit for support of a minor child is age 21. However, the obligation to support a child may end sooner where a minor has become emancipated. See 23 Pa.C.S. § 4323(a) (relating to support of emancipated child).

9. *Section 187.23(a)*. This subsection is retitled, "Applicability" and deletes the current language of § 187.23(a). This section applies to applicants/recipients of cash assistance if there is the reported absence of a parent from the home of an unemancipated minor child, the presence of a putative father for an unemancipated minor child, and a spouse absent from the home. Absence of a parent from the home is determined according to the requirements under § 153.44(a). The specific cooperation criteria for child support are in § 187.23(b).

10. *Section 187.23(a)(1) and (2)*. These paragraphs, subparagraphs and clauses are deleted. The provisions regarding the referral of cash assistance applicants/recipients for child support services are in § 187.23(d), concerning cooperation. Every applicant/recipient must appear before the Domestic Relations Section (DRS) or other applicable division of the court of common pleas before cash assistance is authorized. The previous exemption regarding a mutual agreement existing between the DRS and the Department regarding local referral procedures is incorporated in § 187.23(d)(2). Previously exempt applicants/recipients who had filed a support complaint within 90 days or had a support order established in the last 12 months must now comply with the child support eligibility requirements. The personal appearance requirement affords the applicant/recipient the opportunity to report changes and circumstances and provide new information to the DRS as required by Federal law. The information provided to the DRS may result in the establishment of paternity or location of the noncustodial parent. See 23 Pa.C.S. § 4378(a) (relating to assistance recipients to seek support). The provisions regarding the exemptions from cooperation requirements are modified and specified in § 187.23(d)(3) and (4). The exemption provisions are limited to applicants/recipients applying on behalf of a newborn or filing a good cause claim. The provisions regarding the CAO responsibility to inform the applicant/recipient of the opportunity to claim good cause are deleted here and set forth in § 187.25(a). The child support cooperation requirements are set forth in § 187.23(b).

11. *Section 187.23(a)(3) and (4)*. These provisions are deleted. The provisions regarding waiver of child support

cooperation requirements for good cause are set forth in §§ 187.25(a)(4)—(7) and 187.27.

12. *Section 187.23(a)(5)(i) and (ii)*. These provisions are deleted. The responsibilities of the CAO in the support referral process are delineated as procedures in the Department's *Cash Assistance Handbook*. The provisions regarding notice to the applicant regarding cooperation requirements and noncooperation are in §§ 187.25(a)(2) and (3) and 187.26 (relating to notification to the applicant or recipient; and noncooperation)..

13. *Section 187.23(a)(6)(i)—(v)*. These provisions are deleted because the provisions relate to procedures. The responsibilities of the DRS in the support referral process are delineated as procedures in the Department's *Cash Assistance Handbook*, Chapter 131, Support.

14. *Section 187.23(b)*. This subsection is retitled, "Cooperation Criteria for Child Support," and is amended to incorporate the requirement that an applicant/recipient seeking assistance on behalf of an unemancipated minor child must cooperate in establishing paternity and obtaining support from a legally responsible relative unless the applicant/recipient has good cause for failing to do so. See 23 Pa.C.S. § 4379 (relating to cooperation required).

15. *Section 187.23(b)(1)*. This paragraph is amended to incorporate the requirement that an applicant/recipient must identify the parents of a child for whom assistance is sought and appear for and submit to genetic testing with the child. See 23 Pa.C.S. § 4379(2)(i)(A). The cooperation criteria for obtaining spousal support are set forth in § 187.23(c).

16. *Section 187.23(b)(1)(i)*. This subparagraph is amended to specify that a presumption of noncooperation which may be rebutted only by clear and convincing evidence arises if a mother fails to identify by name the father of an unemancipated minor child. See 23 Pa.C.S. § 4379(2)(ii).

17. *Section 187.23(b)(1)(ii)*. This subparagraph is amended to specify that a presumption of noncooperation which may be rebutted only by clear and convincing evidence arises with the second exclusion if the applicant/recipient provides the names of two putative fathers subsequently excluded from paternity by genetic testing. See 23 Pa.C.S. § 4379(2)(iii).

18. *Sections 187.23(b)(1)(ii)(A) and (B)*. These clauses are deleted. The cooperation criteria for obtaining spousal support are in § 187.23(c).

19. *Section 187.23(b)(2)*. This paragraph is amended to incorporate the requirement that the applicant/recipient who is required to cooperate with the child support enforcement provisions must keep all scheduled appointments with the Department or DRS. See 23 Pa.C.S. § 4379(2)(i)(B).

20. *Section 187.23(b)(2)(i)—(iii)*. These subparagraphs are deleted. The cooperation criteria for obtaining spousal support are in § 187.23(c).

21. *Section 187.23(b)(3)*. This paragraph is amended to incorporate the requirement that an applicant/recipient must provide truthful and accurate information and documents requested by the Department or the DRS. See 23 Pa.C.S. § 4379(2)(i)(C). The cooperation criteria for obtaining spousal support are in § 187.23(c).

22. *Section 187.23(b)(3)(i)*. This subparagraph is amended to delineate requirements for providing information about the location of a parent or putative father. The

requirements for providing information about the location of a spouse are in § 187.23(c)(3).

23. *Section 187.23(b)(3)(ii)*. This subparagraph is amended to delete reference to specific governmental agencies. The cooperation criteria for obtaining spousal support are in § 187.23 (c).

24. *Section 187.23(b)(3)(iii)*. This subparagraph is amended to delineate the plan to locate a missing parent or putative father. The requirements for providing information about the location of a spouse are in § 187.23(c)(3)(i).

25. *Section 187.23(b)(4)*. This paragraph is added to incorporate the requirement that an applicant/recipient must sign and return any forms requested by the Department or the DRS. See 23 Pa.C.S. § 4379(2)(i)(D).

26. *Section 187.23(b)(5)*. This paragraph is added to incorporate the requirement that an applicant/recipient must appear as a witness and provide testimony at judicial and other hearings as requested by the DRS. See 23 Pa.C.S. § 4379 (2)(i)(E).

27. *Section 187.23(b)(6)*. This paragraph is added to incorporate the requirement that an applicant/recipient must pay to the Department any support received directly from an absent parent after an assignment of support rights has been made. See 23 Pa.C.S. § 4379(2)(i)(F).

28. *Sections 187.23(c)(1)—(6)*. This subsection and paragraphs are added to set forth the cooperation requirements that apply to an applicant/recipient for whom there is a spouse who is absent from the home. The applicant/recipient, unless there is good cause for failing to do so, must cooperate by naming the absent spouse, keeping scheduled appointments with the Department or the DRS, providing truthful and accurate information and documents requested by the Department or the DRS, establishing and completing a plan with the CAO to locate the spouse, signing and returning any forms requested by the Department or the DRS, appearing as a witness and providing testimony at judicial and other hearings as requested by the DRS, and paying to the Department any support received directly from an absent spouse after an assignment of support rights has been made. See 62 P. S. § 403(b); 23 Pa.C.S. §§ 4378 and 4379.

29. *Section 187.23(d)*. This subsection is added to specify that, as a condition of eligibility for assistance, an applicant/recipient must cooperate in establishing paternity and obtaining support. See 23 Pa.C.S. §§ 4371 and 4378(a).

30. *Section 187.23(d)(1)*. This paragraph is added to specify that, prior to authorization of assistance, an applicant/recipient must appear before the DRS or applicable division of the court of common pleas and provide the CAO with certification of cooperation from the DRS. See 23 Pa.C.S. § 4378(a).

31. *Section 187.23(d)(2)*. This paragraph is added to specify that the Secretary of the Department may, upon request of a family court or DRS, waive the personal appearance requirement and, in that event, that an applicant/recipient must cooperate with the procedures established for the county. See 23 Pa.C.S. § 4378(a).

32. *Section 187.23(d)(3)*. This paragraph is added to specify that in the case of a newborn, assistance may be authorized as long as support action is taken before the end of the grace period.

33. *Section 187.23(d)(4)*. This paragraph is added to specify that an applicant is exempt from the cooperation

requirements if a good cause claim is filed with the CAO, court of common pleas, or DRS and until the CAO, court or DRS makes a determination on the good cause claim. Additionally, cooperation requirements are waived if the CAO, Court or DRS determines that good cause exists. See 23 Pa.C.S. § 4379(1)(iii) and (iv).

34. *Section 187.23(e)*. This subsection is added to incorporate the requirement that acceptance of assistance operates as an assignment to the Department, by operation of law, of the recipient's right to support. See 23 Pa.C.S. § 4378(b).

35. *Section 187.24(a) (relating to procedures)*. This subsection is deleted because the spousal support requirements are in § 187.23(c). The DRS determines the amount of support obligation and establishes how a support obligation is to be paid by a spouse or a parent pursuant to the Pennsylvania Rules of Civil Procedure and the Domestic Relations Code. See Pa.R.C.P. 1910.1—1910.50; 23 Pa.C.S. §§ 4301—5104.

36. *Section 187.24(b)*. This subsection is deleted because the cooperation criteria for child support are in § 187.23(b), the requirement for cooperation prior to authorization is in § 187.23(d), the requirement for the CAO to notify the applicant or recipient of the cooperation requirements and the right to claim good cause are in § 187.25(a), and the cash assistance allowance reduction for failure to cooperate without good cause are in § 187.25(a). The procedures for the preparation and processing of the Application for Child Support Services and the exchange of information between the CAO and the DRS are deleted and delineated in the Department's *Cash Assistance Handbook* Chapter 131, Support.

37. *Section 187.24(c)*. This subsection is deleted. Referral of persons who do not receive assistance, but who wish to receive child support enforcement services, is found in § 187.21.

38. *Section 187.24(d)*. This subsection is deleted because the cooperation criteria for spousal support are set forth in § 187.23(c).

39. *Section 187.24(e)*. This subsection is deleted because it is obsolete. The cooperation criteria for spousal support are set forth in § 187.23(c).

40. *Section 187.24(f)*. This subsection is deleted as obsolete. Waiver of an expected contribution determined by the CAO for the support of a spouse is no longer valid. Instead, the DRS determines the amount of support obligation and establishes how a support obligation is to be paid by a spouse or a parent under the Pennsylvania Rules of Civil Procedure and the Domestic Relations Code. See Pa.R.C.P. 1910.1—1910.50; 23 Pa.C.S. §§ 4301—5104.

41. *Section 187.24(g)*. This subsection is deleted as obsolete. The domestic relations section determines the amount of support obligation and establishes how a support obligation is to be paid by a spouse or a parent under the Pennsylvania Rules of Civil Procedure governing support actions. See Pa.R.C.P. 1910.1—1910.50. The cooperation criteria for child support are in § 187.23(b) and the cooperation criteria for spousal support are in § 187.23(c).

42. *Section 187.24(h)*. This subsection is deleted as obsolete because the rules governing support actions are set forth under the Pennsylvania Rules of Civil Procedure. See Pa.R.C.P. 1910.1—1910.50. The cooperation criteria for spousal support are in § 187.23(c).

43. *Section 187.24(i)*. This subsection is deleted because the redetermination of the ability of a spouse to pay a support obligation is a responsibility of the DRS in accordance with the Domestic Relations Code, 23 Pa.C.S. §§ 4301—4396, and the Pennsylvania Rules of Civil Procedure governing support actions. See Pa.R.C.P. 1910.1—1910.50.

44. *Section 187.24(j)*. This subsection is deleted because the information is related to military allotments for dependents. The distribution of allotments is handled through the DRS under the Pennsylvania Rules of Civil Procedure governing support actions. See Pa.R.C.P. 1910.1—1910.50.

45. *Sections 187.25(a)(1)—(6) and (b) (relating to notification to the applicant or recipient)*. These provisions are added to specify that, prior to requiring cooperation § 187.23, the CAO will notify the applicant/recipient orally and in writing of the cooperation requirements, of the consequences for failure to cooperate, of the right to claim good cause, that the burden of proving good cause rests with the applicant/recipient, and that a finding of noncooperation does not affect the legally responsible relative's (LRR) duty to pay support. See 23 Pa.C.S. § 4380(b) (relating to enforcement of cooperation requirements).

46. *Section 187.26(a) (relating to noncooperation)*. This subsection is added to specify that either the CAO, court of common pleas or the DRS may make the determination whether the applicant/recipient failed to cooperate without good cause. This section outlines the procedures to be followed depending upon which entity makes that determination. This subsection provides that the court of common pleas of each county shall have the option of hearing appeals from any determination of its DRS that an applicant/recipient has not cooperated in accordance with § 187.23. See 23 Pa.C.S. § 4380(b).

47. *Section 187.26(b)*. This subsection is added to specify that if the court of common pleas or the DRS determine that the applicant/recipient has failed to cooperate without good cause with the support requirements in § 187.23, the court of common pleas or DRS will provide notice of any noncooperation determination to the CAO and that it has opted not to conduct a hearing on the noncooperation determination. Additionally, this subsection provides that appropriate court personnel shall be available to provide telephone testimony at the time and location set by the Department for any Department appeal hearing regarding noncooperation. As a result of Act 58, court personnel is only required to appear by means of telephone for a noncooperation hearing. See 23 Pa.C.S. § 4380(b).

48. *Section 187.26(c)(1)(i)—(iv)*. These provisions are added to specify that, if the CAO, Court, or the DRS determines that the applicant for cash assistance failed to cooperate, the CAO will notify the applicant of the noncooperation determination, of the reduction of the cash assistance allowance by 25%, and of the right to appeal. Additionally, the CAO will authorize the cash assistance allowance reduced by 25% effective upon authorization and authorize the full cash assistance allowance if so ordered as a result of a fair hearing, as a result of good cause being established, or as a result of the applicant cooperating with support requirements. See 23 Pa.C.S. § 4380(b).

Note: The sanction for noncooperation as outlined previously differs from the sanction for noncooperation published in the TANF NORC of March 1, 1997. The NORC

of March 1, 1997, provided that if the applicant/recipient failed to cooperate in establishing paternity and obtaining support without good cause, the sanction would be removal of the applicant/recipient from the grant and establishment of a protective payment for any child on whose behalf the applicant/recipient sought assistance. If removal of the applicant/recipient did not result in a grant reduction of at least 25%, there would have to be an additional reduction so that the grant was reduced in an amount not less than 25%. See 27 Pa.B. 1105. The requirement as to the imposition of the protective payment was based upon Act 35 and the PRWORA, as to the mandatory imposition of the not less than 25% reduction in the grant. See 62 P.S. § 432.7A; 42 U.S.C.A. § 608(a)(2). With the enactment of Act 58, the sanction for noncooperation without good cause is now a reduction of the cash assistance allowance by 25%, and if provided by Departmental regulation, imposition of a protective payment. See §§ 141.21(e) and 187.26; 23 Pa.C.S. § 4380(b). Act 58 provides that imposition of protective payment is at the option of the Department if provided for by Departmental regulation. The Department is not providing for imposition of protective payments in this rulemaking. See 23 Pa.C.S. § 4380(b).

49. *Section 187.26(c)(2)(i)–(iv)*. These provisions are added to specify that the CAO will notify the cash assistance recipient of the noncooperation determination, the reduction of the cash assistance allowance, and the right to appeal if the CAO, court or the DRS determines that the recipient failed to cooperate. Additionally, unless a timely appeal is filed by the recipient, the CAO will authorize reduction of the cash assistance allowance by 25% 10 days after the date of the notice. If the Department action is sustained on appeal, the Department will initiate recovery of the cash assistance allowance granted pending a fair hearing. See 23 Pa.C.S. § 4380(b)(2)

50. *Section 187.26(d)*. This subsection is added to specify that any hearing or appeal with respect to an order of noncooperation directed by the court or the DRS shall be conducted by the court in accordance with the Pennsylvania Rules of Civil Procedure. See 23 Pa.C.S. § 4380(b)(3).

51. *Section 187.26(d)(1)(i)–(iii) and (2)*. These provisions are added to specify that if the court determines that the applicant/recipient failed to cooperate without good cause, the court shall order the Department to impose sanctions. This section also describes the actions the CAO will take upon receipt of an order. The Department must implement the order within 10 days. The CAO will provide notice of the order and the cash assistance allowance reduction to the applicant/ recipient as well as notice that the right of appeal to the Department's Bureau of Hearings and Appeals is limited to the calculation of the assistance amount. In addition, when the court has determined noncooperation, the CAO will authorize the cash assistance allowance reduced by 25% effective with the date of authorization for applicants, or will reduce the cash assistance allowance by 25%, effective 10 days after the court order. See 23 Pa.C.S. § 4380(b)(3).

52. *Section 187.27(a)(1)–(3)*. These provisions are added to specify the circumstances under which child support cooperation requirements may be waived for good cause, such as, the child was conceived as a result of a rape or incest or legal proceedings for the adoption of the child are pending before a court. See 23 Pa.C.S. § 4379(1)(iii) and (iv).

53. *Section 187.27(a)(4)(i)–(ix)*. These provisions are added to specify the circumstances that constitute good cause based on domestic violence. Good cause due to domestic violence may be established if 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, or unfairly penalize those individual who has been victimized by such violence, or who is at risk of further violence. Domestic violence is defined as: physical acts that resulted in, or threatened to result in, physical injury to the individual; sexual abuse; sexual activity involving a dependent child; being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities; threats of, or attempts at, physical or sexual abuse; mental abuse; neglect or deprivation of medical care. This amendment removes the term "serious" as it describes physical or mental abuse. This amendment also removes the requirement that the abuse must be so that it interferes with the individual's capacity to care for the child. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

54. *Section 187.27(b)*. This subsection is added to specify that an applicant/recipient shall provide relevant corroborative evidence of the good cause claim. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

55. *Section 187.27(b)(1)(i)–(iii)*. These provisions are added to specify the types of evidence that may be used to corroborate a good cause claim when the child was conceived as a result of rape or incest or legal proceedings for the adoption of the child are pending before a court. See 23 Pa.C.S. § 4379(1)(iii) and (iv).

56. *Section 187.27(b)(1)(iv)–(vii)*. These provisions are added to specify the types of evidence that may be used to corroborate a good cause claim when the claim is based on domestic violence. This amendment deletes the term "sworn" as it relates to statements from individuals who have knowledge of the good cause circumstances. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

57. *Section 187.27(b)(1)(vii)*. This section is being added to specify that the "Verification of Good Cause Based on Domestic Violence" form shall be completed for all good cause claims based on domestic violence. This form is used to accompany acceptable verification as specified in § 187.27(b)(1)(iv), (v) or (vi) that an applicant or recipient has provided, to authorize by written consent of the applicant or recipient that a third party may provide verification/corroboration of the good cause claim, or to grant good cause for up to 6 months when an applicant or recipient affirms she is unable to safely obtain evidence to verify the claim of domestic violence within the established time frames for providing verification. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

58. *Section 187.27(b)(2)*. This paragraph is added to specify that the CAO, court or the DRS may provide assistance with obtaining corroborative evidence and may obtain specific documents that the applicant/recipient is not able to obtain. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

59. *Section 187.27(b)(3)*. This paragraph is added to specify that an applicant/recipient shall provide corroborative evidence of a good cause claim within 30 days of the date of the initial claim except when the applicant or recipient cannot provide verification of the good cause

claim as specified in (b)(1)(vii)(C). See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

60. *Section 187.27(b)(3)(i)*. This subparagraph is added to clarify that in the case of an applicant, assistance will be authorized no later than 30 days following application when good cause is claimed and verification is not readily available or pending from a third party. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

61. *Section 187.27(b)(3)(ii)*. This subparagraph is added to clarify that in the case of a recipient, the CAO will continue assistance if verification of the good cause claim is not provided within 30 days and the delay is due to a third party. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

62. *Section 187.27(c)*. This subsection is added to specify that the CAO, court or DRS shall make a determination on a good cause claim within 45 days of the date the applicant/recipient initiates the claim. The CAO, court or DRS may extend the 45-day period. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

63. *Section 187.27(c)(1)*. This paragraph is added to specify that if the CAO makes the good cause determination, the CAO will notify the applicant/recipient in writing of the final determination and the basis for the determination and the right to appeal under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). If the good cause claim is denied, neither the Department nor the Bureau of Child Support Enforcement will attempt to establish paternity or collect support for at least 30 days after the client has been informed orally and in writing of the denial. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

64. *Section 187.27(c)(2)*. This paragraph is added to specify that if the court or DRS makes the good cause determination, the DRS will notify the applicant/recipient and the CAO of the final determination and the basis for the determination and the right to appeal under Chapter 275. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

65. *Section 187.27(c)(3)*. This paragraph is added to specify that in all cases when the CAO, court or the DRS approves a waiver based on a good cause claim, they will also establish the expiration of the waiver and the DRS will not attempt to establish paternity or obtain support. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

66. *Section 187.27(c)(4)*. This paragraph is added to specify that a good cause determination shall be reviewed at least every 6 months. The review may be earlier if the circumstances of the good cause waiver change or the waiver has been granted for a lesser period. In addition, if good cause was granted based on corroborative evidence, the good cause claimant does not have to provide additional corroborative evidence at the time of the review if circumstances have not changed since the initial good cause waiver was approved. If the good cause claim was granted based on the recipient's written affirmation and she is still unable to provide documentation other than her initial affirmation, the CAO will make a determination of good cause based on a current assessment of the recipient's circumstances. This assessment will be made by a person with domestic violence training and substantiated by completion of the Form PA/CS 1747,

Verification of Good Cause Based on Domestic Violence. See 23 Pa.C.S. § 4379(1)(iii) and (iv); 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii).

II. The following are regulations that apply to the TANF Program:

A. The following revisions relating to general eligibility requirements for the TANF Program are being made to Chapter 141 (relating to general eligibility provisions):

1. *Section 141.41(f)(1)–(3) (relating to policy)*. These provisions are added to specify that a family is ineligible for TANF cash assistance if it includes an adult who has received 60 months of TANF cash assistance. Assistance received as a minor child does not count toward the 60-month limit except when the minor child is the head of household or is married to the head of household. There is no time limit on benefits in child-only cases, that is, when the adults in the budget group are not themselves receiving TANF cash assistance. However, parents living with the child are required to be included in the TANF budget group application. Receipt of TANF need not be consecutive to count toward the 60-month limit. See 42 U.S.C.A. § 608(a)(1)(B).

2. *Section 141.42 (relating to definitions)*. This section is revised to add the definitions of "cash assistance allowance" (which is used but not defined in 23 Pa.C.S. § 4380), "family" (which is used but not defined in 42 U.S.C.A. § 608(a)(1)) and "minor child" (which is defined in 42 U.S.C.A. § 619). Cash assistance under the TANF Program is available only to households that include a minor child and the child's custodial parent or other adult caretaker/relative. The term "minor child" replaces the term "dependent child" which was used in the AFDC program.

B. The following revision relating to the age of a TANF child is being made to Chapter 145 (relating to age):

1. *Section 145.43(a)(1)(ii) (relating to requirements)*. This subparagraph is revised to delete the limitation that a school student who is 18 years of age is considered a minor child only if he is expected to graduate from a secondary school or its equivalent before reaching age 19. See 42 U.S.C.A. §§ 608(a)(1) and 619.

C. The following are comments regarding residency requirements found in Chapter 147 (relating to residency):

1. Section 432(5)(ii) of the code specifies that TANF applicants who have resided in this Commonwealth for fewer than 12 months cannot receive cash assistance benefits in excess of the amount they could have received in their prior state of residence. This requirement was implemented effective March 3, 1997.

However, on October 6, 1997, the United States District Court for the Eastern District of Pennsylvania preliminarily enjoined the Department from enforcing this multiterrier durational residency provision, *Maldonado et al. v. Houstoun et al.* 177 F.R.D. 311 (1997). On September 9, 1998, that preliminary injunction was upheld by the United States Court of Appeals for the Third Circuit, 157 F.3d 179 (1998). On May 24, 1999, following its decision in *Saenz v. Roe*, 119 S.Ct. 1518 (1999), striking California's two-tier durational residency requirement, the United States Supreme Court denied the Commonwealth's Petition for Certiorari seeking review of the 3d Circuit's decision in *Maldonado*. In light of those decisions, no regulation will be promulgated to implement section 432(5)(ii) of the code.

D. The following revisions relating to the care and control of a minor child are being made to Chapter 151 (relating to specified relatives):

1. *Section 151.42 (relating to definitions)*. This section is revised to:

* Add the definition of "adult." See 42 U.S.C.A. § 619.

* Explain that in addition to the relationship requirements that already exist, a specified relative shall also be an adult or a minor parent who is not required to live in the home of an adult specified relative or adult-supervised supportive living arrangement. See 42 U.S.C.A. § 608(a)(5).

2. *Section 151.43(d)(1) (relating to requirements)*. This paragraph is revised to specify that the eligibility of a TANF child is not automatically affected by a temporary absence from the home if the absence does not exceed 180 days. This provision does not apply in cases when custody of the child has been relinquished to a third party or the child is staying with a parent under the terms of a custody order. See 42 U.S.C.A. § 608(a)(10).

3. *Section 151.43(d)(3)*. This paragraph is added to provide that a specified relative is ineligible for assistance for 30 days if he fails to report the absence of a child within 5 days of the date it becomes clear that the child's absence will exceed the 180-day period. See 42 U.S.C.A. § 608(a)(10).

4. *Section 151.43(f)*. This subsection is revised to delete the requirement that eligibility for TANF is limited to a pregnant woman who verifies that she is in her third trimester of pregnancy. Under the PRWORA, a pregnant woman with no other children living with her may qualify for TANF from the date she provides medical verification of her pregnancy. See 42 U.S.C.A. § 608(a)(1)(A)(ii).

E. The following revisions relating to deductions from the earned income of a TANF applicant or recipient are being made to Chapter 183 (relating to income):

1. *Section 183.94(1) (relating to eligibility for TANF earned income deductions)*. This paragraph is revised to specify that an applicant for TANF who has been a TANF recipient in 1 of the 4 calendar months prior to application is eligible for the continuous 50% disregard from earned income. The \$90 standard deduction from gross earned income is no longer applicable and is deleted.

2. *Section 183.94(2)(i)–(iii)*. This section is revised to specify that an applicant for TANF who has not been a recipient in 1 of the 4 calendar months prior to application is eligible for the continuous 50% disregard if his income, after applicable deductions, is less than the standard of need for the household size.

3. *Sections 183.94(2)(iv) and (v)*. These subparagraphs are deleted since they relate to the now obsolete time-limited 30 plus 1/3 earned income incentive deduction that is replaced by the continuous 50% disregard.

4. *Sections 183.96(a)–(e) and 183.97(4) (relating to interruption in the 4 consecutive months of the earned income incentive deduction for AFDC and GA; and ineligibility for disregards from earned income for TANF and GA)*. The provisions of these sections are deleted. The requirements relating to interruptions in the 4-consecutive months of the earned income incentive deduction no longer apply. The time-limited earned income incentive deduction is replaced by the continuous 50% disregard under § 183.94(1) and (2). See 62 P. S. § 432.12.

III. The following are provisions that apply to the MA program:

A. The following revisions to Chapter 140 (relating to special MA eligibility provisions), clarify when student financial assistance is excluded as income, and change the income methodology in determining eligibility for Healthy Beginnings:

1. *Section 140.41(1)–(4) (relating to educational loans and grants)*. These paragraphs are deleted. This section no longer itemizes the types of educational loans and grants that are not counted as income but is revised to specify that Federally-funded student financial assistance, including college work-study income, is excluded as income. In addition, all other student financial assistance provided to pay for educational expenses is excluded as income unless the assistance is provided solely for payment of basic living needs.

2. *Section 140.53 (relating to income-in-kind)*. This section is deleted and reserved since income-in-kind is no longer considered in determining eligibility.

3. *Section 140.65 (relating to educational assistance)*. This section is revised to delete references to specific types of educational assistance that are excluded as income when determining eligibility. This section is also revised to specify that Federally-funded student financial assistance, including college work-study income, is excluded as income. All other educational assistance is excluded unless it is specifically provided to pay for basic living needs. See 62 P. S. § 401(a).

4. *Sections 140.81(1) and (2) (relating to deductions from earned income)*. These paragraphs are revised to reflect the change in earned income deductions for employed applicants/recipients of the Healthy Beginnings Program. Each employed person whose income is used to determine eligibility and who qualifies for the earned income disregard is entitled to a continuous 50% disregard from gross earned income. Persons determined ineligible using the 50% disregard will be evaluated under the income methodology that existed prior to TANF to determine if they are eligible for MA.

B. The following revisions to Chapter 141 clarify that persons who are ineligible for TANF as a result of new eligibility requirements may have their MA eligibility established by use of the AFDC requirements previously in place. The two areas of significant difference between the new method and old relate to the work incentive deduction and the disregard of the first \$50 of support:

1. *Section 141.71(a)(10) (relating to policy)*. This paragraph is added to cross reference the revised definition in § 151.42 (relating to definitions). The cross reference is necessary to ensure consistency with TANF eligibility requirements.

2. *Section 141.71(b)(6)*. This paragraph is added to specify that an applicant/recipient determined ineligible for TANF due to the elimination of the \$30 plus 1/3 work incentive deduction or the elimination, or both, of the \$90 work expense deduction may qualify for TANF-related NMP, if otherwise eligible.

Note: The provision in the NORC published at 27 Pa.B. 1092 (at p. 1105), provided for MA eligibility for a family that lost TANF benefits solely due to the elimination of the disregard of the first \$50 of support received. The subsequent resumption of the disregard of the first \$50 of support nullifies the need for this provision. See Section I.H.6 of this Preamble.

3. *Section 141.71(b)(6)*. This paragraph is renumbered § 141.71(b)(7) as a result of the addition of a new paragraph (6).

C. The following revisions relating to resources are being made to Chapter 178 (relating to resource provisions for categorically needy NMP-MA and MNO-MA).

1. *Sections 178.11(4)(ii) and 178.12(5)(ii) (relating to categories of NMP-MA; and categories of MNO-MA)*. These subparagraphs are revised to delete the limitation that a school student who is 18 years of age is considered a minor child only if he is expected to graduate before reaching age 19. See 42 U.S.C.A. § 608(a)(1).

2. *Section 178.151(c) (relating to additional resource requirements)*. This subsection is revised to reflect the requirement that an applicant/recipient of GA-related NMP and MNO-MA has an initial 9-month period to dispose of nonexcluded real property and additional 9-month periods to dispose of nonexcluded real property as long as good cause exists for not selling the property. See 62 P. S. § 401(a).

3. *Section 178.161(12) (relating to personal property exclusions)*. The reference to term insurance is deleted since all life insurance is exempt from consideration as a resource when determining eligibility for GA-related NMP and MNO-MA. Section 178.161(13)—(16) is renumbered (12)—(15) respectively, as a result of this deletion. See 62 P. S. §§ 403(b) and 441.1.

4. *Section 178.161(13)*. This paragraph, formerly § 178.161(14), is revised to clarify that all life insurance is excluded in determining eligibility for GA-related NMP and MNO-MA. See 62 P. S. §§ 403(b) and 441.1.

5. *Section 178.161(16)*. This paragraph is added to specify that student financial assistance in the form of loans, grants and scholarships is excluded as a resource in determining eligibility for GA-related NMP and MNO-MA. See 62 P. S. § 401(a).

6. *Section 178.161(17)*. This paragraph is added to specify that Family Savings Accounts established under the Job Enhancement Act, are exempt as a resource in determining eligibility for GA-related NMP and MNO-MA. This exemption was not included in the NORC published at 27 Pa.B. 1092 and, consequently, will not be effective retroactively. It will be effective upon publication as final.

7. *Section 178.165(a) (relating to educational savings account)*. This subsection is revised to specify that funds withdrawn from education savings accounts shall be used to pay for educational expenses. See 62 P. S. § 408.2.

8. *Section 178.165(a)(4)*. This paragraph is revised to clarify that only monies withdrawn to pay for educational expenses are exempt. See 62 P. S. § 408.2.

D. The following revisions related to additional income exclusions, reinstatement of the \$50 child support disregard in § 181.264(16) (relating to income and benefits not counted by Federal and State statutes for the AFDC and GA categories), and a change in the earned income deductions are being made to Chapter 181:

1. *Section 181.41(4)(ii) and 181.42(5)(ii) (relating to categories; and categories of MNO-MA)*. These subparagraphs are revised to delete the limitation that a school student who is 18 years of age is considered a minor child only if he is expected to graduate from secondary school or its equivalent before reaching age 19. See 42 U.S.C.A. § 608(a)(1).

2. *Section 181.251 (relating to NMP-MA gross income test for TANF categories)*. This section is revised to specify that the income of a recipient will no longer be subject to the gross income eligibility limit.

3. *Section 181.251(c)(3)*. The reference to § 181.273 (relating to income-in-kind) is deleted because income-in-kind is excluded as income in determining eligibility for TANF and GA-related NMP and MNO-MA. As a result of this deletion, § 181.251(c)(4)—(11) is renumbered (3)—(10) respectively. See 62 P. S. §§ 403(b) and 441.1.

4. *Sections 181.262(1)—(4) (relating to educational loans and grants)*. These paragraphs are deleted. Section 181.262 now provides that all Federally-funded student financial assistance, including college work-study income, is excluded as income. In addition, all other student financial assistance provided for educational expenses is excluded as income, unless the assistance is provided solely to meet basic living needs. See 62 P. S. § 401(a).

5. *Section 181.264(16)*. The support pass-through disregard as codified in § 181.264(16) is reinstated. The provisions of Act 58 clarify that the first \$50 of current support received by the applicant/recipient group will be disregarded for TANF-related and GA-related MA eligibility purposes. See Section I.H.6 of this Preamble. See 23 Pa.C.S. § 4374(c)(1)(ii).

6. *Section 181.273*. This section is deleted and reserved since income-in-kind is no longer counted in determining eligibility for TANF and GA-related NMP and MNO-MA. See 62 P. S. §§ 403(b) and 441.1.

7. *Section 181.287 (relating to educational assistance)*. This section is revised to clarify that for TANF and GA-related NMP and MNO-MA, Federally-funded student financial assistance, including college work-study income, is excluded as income. In addition, all other student financial assistance in the form of loans, grants and scholarships is excluded as income, unless the assistance is provided solely to meet basic living needs. See 62 P. S. § 401(a).

8. *Section 181.311(1)—(3) (relating to deductions from earned income for the TANF categories of NMP-MA)*. These paragraphs are revised to reflect the change in earned income deductions for employed applicants/recipients of TANF-related NMP-MA. Each employed person whose income is used to determine eligibility and who qualifies for the earned income incentive is entitled to a continuous 50% disregard from gross earned income. Persons determined ineligible using the 50% disregard will be evaluated under the income methodology that existed prior to TANF.

9. *Section 181.311(4) and (4)(i)—(iv)*. These provisions are deleted because the contents were incorporated into the revisions in § 181.311(2)(iii)(B)(I)—(IV).

IV. The following technical changes have also been made:

* Sections 141.41, 145.43, 151.43(d), 153.44(a)(2), (3) and (7), (b)(2)(i)(A), (c)(1), (d)(1)(i) and (v) and (2)(ii)(B) and (C) and (d)(3)(i), 165.61(b), 178.11(4)(ii), 178.12(5)(ii), 181.263 and 183.97. The acronym "AFDC" is replaced by the acronym "TANF" in these sections.

* Sections 153.44(d)(1)(i)(E), (ii), (2)(ii)(C), 165.1(a), 165.2, 165.21(a)—(c), 165.52(a)(9)—(12), (15) and (17), 165.61(a)(1) and 165.71(a). The acronym "ETP" is replaced by the acronym "RESET" in these sections.

* Sections 177.21(a)(12) and 178.165(b). The reference to P. L. 28, No. 11 is deleted and replaced with the appropriate citation for the Tuition Account Program and College Savings Bond Act.

Affected Individuals and Organizations

This proposed rulemaking will affect applicants and recipients of TANF, GA and MA.

Accomplishments/Benefits

Implementation of the Act 35 and TANF provisions promotes self-sufficiency and personal responsibility. New requirements have simplified the income and resource eligibility rules and have shifted the focus of welfare to obtaining employment and securing child support. The new income requirements have provided a greater incentive for recipients to work while allowing cash assistance to serve as a support in the transition from welfare to self-sufficiency. Revised work requirements have reinforced the focus of welfare reform to move individuals into work or work-related activities. Revised child/spousal support requirements related to temporarily waiving co-operation in establishing paternity or obtaining support, or both, based on a claim of domestic violence afford individuals an opportunity to access counseling services, safety planning and other needed services. Overall, these changes have resulted in an integrated program that meets the requirements of State and Federal law.

Fiscal Impact

Commonwealth: The estimated savings to the Commonwealth for Federal Fiscal Year (FFY) 2000 and thereafter is \$204.363 million. The estimated costs to the Commonwealth for FFY 2000 are \$86.778 million and thereafter, \$83.740 million.

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

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

Paperwork Requirements

Form PA 1661, Agreement of Mutual Responsibility (AMR), was developed to serve as the written agreement between the Department and the recipient that outlines the responsibilities and obligations of both parties in relation to the recipient's plan for self-sufficiency. This form is completed at application and redetermination for each person required to sign the application for benefits. The AMR is updated as often as circumstances of the client change or when the client requests a change.

Form PA/CS 1747, Verification of Good Cause Based on Domestic Violence, was developed to serve any of three purposes: 1) as an accompaniment to acceptable verification provided by the client; 2) as authorization by written consent that a third party may provide verification/corroboration of the good cause claim; or 3) to grant good cause for up to 6 months when an applicant or recipient affirms in writing that the applicant or recipient is unable to safely obtain evidence to verify the claim of domestic violence within the established time frames. Approval or denial of the good cause claim is also recorded on the PA/CS 1747.

Effective Date

The effective date of §§ 105.1, 105.3, 105.4, 125.1, 133.23, 140.41, 140.53, 140.65, 140.81, 141.1, 141.21, 141.41, 141.42, 141.61, 141.71, 145.43, 151.42, 151.43, 153.42, 153.44, 165.1, 165.2, 165.11, 165.21, 165.22, 165.25, 165.31, 165.51, 165.52, 165.61, 165.71, 178.11, 178.12, 178.151, 178.161, 178.165, 181.41, 181.42, 181.251, 181.262, 181.263, 181.273, 181.287, 181.311, 183.23, 183.38, 183.71, 183.81, 183.94, 183.96 and 183.97, as amended by Act 35 and PRWORA, when published as

final-form rulemaking in the *Pennsylvania Bulletin*, will be retroactive to March 3, 1997.

The effective date of the reinstatement of the support pass-through disregard found in § 183.81(29), as amended by Act 58, will be retroactive to October 1, 1998.

The effective date of § 187.27 as amended by PRWORA, will be retroactive to July 3, 2000.

The effective date of the Family Savings Account exemption found in §§ 177.21, 177.22, 177.24 and 187.21—187.27 as amended by Act 58, is the date of publication as final rulemaking in the *Pennsylvania Bulletin*.

Sunset Date

There is no sunset date. The regulations will be changed in accordance with changes in State and Federal law.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to the Department of Public Welfare, Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081, within 30 days after the date of publication of this notice in the *Pennsylvania Bulletin*. Comments received within 30-calendar days will be reviewed and considered in the preparation of the final-form regulations. Comments received after the 30-day period will be considered for any subsequent revision of these regulations.

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

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 2, 2001, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has 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.

If IRRC has any objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to publication of the rulemaking, of objections raised by the Department, the General Assembly and the Governor.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-472. (1) General Fund;

	<i>Cash Grants</i>	<i>New Directions</i>	<i>County Assistance Statewide</i>
	<i>(dollars in thousands)</i>		
(2) Implementing Year 2000-01 is	\$76,827	\$9,038	\$913
(3) 1st Succeeding Year 2001-02 is	\$76,827	\$6,000	\$913
2nd Succeeding Year 2002-03 is	\$76,827	\$6,000	\$913
3rd Succeeding Year 2003-04 is	\$76,827	\$6,000	\$913
4th Succeeding Year 2004-05 is	\$76,827	\$6,000	\$913
5th Succeeding Year 2005-06 is	\$76,827	\$6,000	\$913
	<i>Cash Grants</i>	<i>New Directions</i>	<i>County Assistance Statewide</i>
(4) 2000-01 Program—	\$294,122	\$72,644	\$45,664
1999-00 Program—	\$311,394	\$85,218	\$45,157
1998-99 Program—	\$259,688	\$81,552	\$42,371

(8) recommends adoption. Savings for Cash Grants are estimated at \$204.363 million per year, which results in an overall net savings of \$117.585 million in FY 2000-01 and \$120.623 million annually thereafter.

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart A. ASSISTANCE POLICIES AND PROCEDURES

CHAPTER 105. SAFEGUARDING INFORMATION

§ 105.1. Policy.

* * * * *

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

* * * * *

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

* * * * *

§ 105.3. Requirements.

* * * * *

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

§ 105.4. Procedures.

* * * * *

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

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

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

[(c)] (d) * * *

[(d)] (e) * * *

* * * * *

[(e)] (f) * * *

* * * * *

Subpart B. INTAKE AND REDETERMINATION

CHAPTER 125. APPLICATION PROCESS

GENERAL PROVISIONS

§ 125.1. Policy.

* * * * *

(f) *Signing an agreement of mutual responsibility.* Each applicant for cash assistance and other persons who are required to sign an application for assistance shall be required, as a condition of eligibility, to sign a specific, individualized Agreement of Mutual Responsibility (AMR) with the Department which includes the responsibilities and obligations to be undertaken by the applicant to achieve self-sufficiency, the time frames within which each obligation is to be completed and the penalties for failure to comply.

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

(2) An applicant shall comply with the following obligations, if applicable, as provided by statute, regulation or the applicant's AMR, including the following obligations:

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

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

(iii) Provide timely and accurate information.

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

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

(vi) Seek, accept and maximize and maintain employment, accept referral to, participate in and continue to participate in an available work or work-related activity, whichever applies, including those specified on the AMR, and not reduce earnings under §§ 141.41(e), 141.61(a)(1), 165.1 and 165.31.

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

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

(g) [(f)] * * *

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

§ 133.23. Requirements.

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

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

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

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

(B)] * * *

* * * * *

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

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

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

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

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

(III) Provide timely and accurate information.

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

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

(VI) Seek, accept and maximize and maintain employment, accept referral to, participate in and continue to participate in an available and approved work or work-related activity, whichever applies, including those specified on the AMR, and not reduce earnings, under §§ 141.41(e), 141.61(a)(1), 165.1 and 165.31.

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

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

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

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

* * * * *

Subpart C. ELIGIBILITY REQUIREMENTS

**CHAPTER 140. SPECIAL MA ELIGIBILITY
PROVISIONS**

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

TYPES OF INCOME NOT COUNTED

§ 140.41. Educational loans and grants.

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

(1) Federal loans and grants to undergraduate students made or insured under a program administered by the Secretary of the United States Department of Education.

(2) College Work Study Program (CWSP) earnings of undergraduate students.

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

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

EARNED INCOME COUNTED

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

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

UNEARNED INCOME COUNTED

§ 140.65. Educational assistance.

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

INCOME DEDUCTIONS

§ 140.81. Deductions from earned income.

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

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

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

(i) [Subject to the treatment of interruptions in subparagraph (iv) and the limitation in subpara-

graph (v), each] Each employed person in the applicant/recipient group or family member is eligible to receive an earned income incentive deduction [of \$30 plus 1/3 of the remainder of the earned income for 4 consecutive months after the deductions in paragraph (1)] if one of the following exists:

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

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

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

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

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

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

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

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

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

(iii)] (B) * * *

[(A)] (I) * * *

[(B)] (II) * * *

[(C)] (III) * * *

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

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

* * * * *

CHAPTER 141. GENERAL ELIGIBILITY PROVISIONS

GENERAL PROVISIONS

§ 141.1. Policy.

* * * * *

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

* * * * *

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

ELIGIBILITY PROVISIONS FOR TANF/GA

§ 141.21. Policy.

* * * * *

(e) [The caretaker/relative who refuses to cooperate in establishing paternity or securing support, except as provided under subsection (d)(1)(i), is ineligible for assistance. Assistance for the child will be provided in the form of protective payments as provided in Chapter 291 (relating to protective and vendor payments) to assure that the child received the benefit of the payment. Because county staff persons may be used as protective payees if necessary, there should be no instance in which a child is ineligible for assistance for lack of

a protective payee] Failure to cooperate in establishing paternity or obtaining support, without good cause, will result in the reduction of the cash assistance allowance by 25%.

* * * * *

(s) An applicant or recipient [of GA] who has been convicted of violating section 481(a) of the Public Welfare Code (62 P. S. § 481(a)), that is, has been convicted of securing or attempting to secure, or aiding or abetting or attempting to aid or abet any person in securing GA, TANF, MA or Federal food stamps by means of a willfully false statement or misrepresentation, or by impersonation or by willfully failing to disclose a material fact regarding eligibility either prior to or at the time of, or subsequent to the application for assistance is ineligible for [GA] cash assistance as follows:

* * * * *

(t) [An applicant or recipient of TANF who has been convicted of violating section 481(a) of the Public Welfare Code, that is, has been convicted of securing TANF by means of a willfully false statement or misrepresentation, or by impersonation or by willfully failing to disclose a material fact regarding eligibility either prior to or at the time of, or subsequent to the application for TANF or GA is ineligible for TANF and GA as follows:

(1) For 6 months from the date of first conviction.

(2) For 12 months from the date of a second conviction.

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

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

ELIGIBILITY PROVISIONS FOR [AFDC] TANF

§ 141.41. Policy.

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

* * * * *

(e) As a condition of eligibility, nonexempt applicants and recipients are required to seek employment, accept any bona fide offer of employment and maximize and maintain employment as specified under §§ 165.1 and 165.31 (relating to general; and RESET participation requirements). Those nonexempt individuals who are not employed for an average of at least 20 hours per week shall accept referral to, participate in and continue to participate in an available and approved work or work-related activity, whichever is applicable, including those specified on the Agreement of Mutual Responsibility, as a condition of eligibility as specified under § 165.31. In addition, nonexempt indi-

viduals may not, without good cause, voluntarily terminate employment, reduce earnings or fail to apply for work.

(f) A family is ineligible for TANF cash assistance payments if it includes an adult who has received 60 months of TANF cash assistance.

(1) Assistance received as a minor child is not counted toward the 60-month limit.

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

(3) Periods of receipt of TANF need not be consecutive to count toward the 60-month limit.

§ 141.42. Definitions.

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

* * * * *

Budget group—One or more related or unrelated individuals who occupy a common residence or would occupy a common residence if they were not homeless and whose needs are considered together in determining eligibility for cash assistance under one category of assistance.

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

Family—A minor child and his parent or adult specified relative, as defined in § 151.42 (relating to definitions) with whom the child lives. A specified relative is considered a member of a family regardless of whether the specified relative is included in the TANF application or is applying only on behalf of the minor child.

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

* * * * *

ELIGIBILITY PROVISIONS FOR GA

§ 141.61. Policy.

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

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

* * * * *

(xv) As a condition of eligibility, nonexempt GA applicants and recipients are required to seek employment, accept any bona fide offer of employment and maximize and maintain employment as specified under §§ 165.1 and 165.31 (relating to general; and RESET participation requirements). Those nonexempt individuals who are not employed for an average of at least 20 hours per week shall accept referral to, participate in and continue to participate in an available and approved work or work-related activity, whichever is applicable, including those specified on the Agreement of Mutual

Responsibility, as a condition of eligibility, as specified under § 165.31. In addition, nonexempt individuals may not, without good cause, voluntarily terminate employment, reduce earnings or fail to apply for work.

* * * * *

ELIGIBILITY PROVISIONS FOR MA FOR THE CATEGORICALLY NEEDY

§ 141.71. Policy.

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

* * * * *

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

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

* * * * *

(6) Applicants/recipients determined ineligible for cash assistance due to the elimination of the \$30 plus 1/3 remainder of the earned income incentive deduction for 4 consecutive months or the \$90 work expense deduction, or both.

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

* * * * *

CHAPTER 145. AGE

AGE PROVISIONS FOR [AFDC] TANF

§ 145.43. Requirements.

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

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

* * * * *

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

* * * * *

CHAPTER 151. SPECIFIED RELATIVES

SPECIFIED RELATIVES PROVISIONS FOR [AFDC] TANF

§ 151.42. Definitions.

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

Adult—An individual who is 19 years of age or older or who is 18 years of age and not a full-time

student in a secondary school or in the equivalent level of vocational or technical training.

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

* * * * *

§ 151.43. Requirements.

* * * * *

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

(1) The absence of the child is not more than or expected to be more than 180 consecutive days. A specified relative who fails to report within 5 days of the time it becomes clear that a minor child will be absent beyond the consecutive 180-day period will be ineligible for assistance for 30 days.

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

[(2)] (3) * * *

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

* * * * *

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

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

CHAPTER 153. DEPRIVATION OF SUPPORT OR CARE

DEPRIVATION OF SUPPORT OR CARE PROVISIONS FOR [AFDC] TANF

§ 153.42. Definitions.

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

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

* * * * *

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

(a) General. If a child is living with both of his natural parents, the incapacity of either parent is the eligibility factor for [AFDC] TANF. If a child has been legally adopted, it is his lack of the support or care of the adoptive parent, and not of the natural parent, that is the eligibility factor for [AFDC] TANF. If a child is living with a parent and a stepparent, lack of support or care by

the natural parent is the eligibility factor for [AFDC] TANF. Deprivation of support is not considered to exist in situations where the mother and the putative father of a child born out-of-wedlock are living together with the child and paternity has been established. For Public Assistance purposes this is an intact family. The CAO documents a putative father's claim of paternity for a child born out-of-wedlock who was born within this Commonwealth on an Acknowledgement of Paternity form (H105.181) under § 153.44(e)(1) (relating to procedures). In instances where the putative father claims paternity of a child who was born out-of-State, the CAO refers the putative father to the DRS to file a DRS Voluntary Statement of Paternity form in accord with § 153.44(e)(2). In situations where the putative father living with the child denies paternity, [AFDC] TANF may be established based on the absence of the child's legal parent if all other eligibility requirements are met. A child is considered deprived of parental support or care if at least one parent is one of the following:

* * * * *

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

§ 153.44. Procedures.

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

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

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

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

(4)] (3) * * *

[(5)] (4) * * *

[(6)] (5) * * *

* * * * *

[(7)] (6) Whenever it is found that a parent is absent from the home, and not for one of the specific reasons

listed in paragraph (6), there must be evidence, for purposes of eligibility for [AFDC] TANF, that temporarily or permanently he is not taking responsibility for the support, care or guidance of the child.

[(8)] (7) * * *

[(9)] (8) * * *

[(10)] (9) * * *

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

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

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

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

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

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

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

(1) Incapacity. The incapacity must be proved. If the necessary data is not already available in the case record or from the parent, the County Office will help him, if he wants help, to get the necessary verification. If the services of a competent authority are not available without cost, the County Office will authorize a medical examination. If capacity of either parent cannot be determined from the available information, the County Office will make a preliminary decision regarding the incapacity.

If the decision is that a parent appears to be incapacitated, and if the grant group meets the other [AFDC] TANF eligibility requirements, the County Office will authorize [AFDC] TANF presumptively as provided in Chapter 227 (relating to central office disbursement). When there is a question of incapacity, the client must cooperate with the County Office in providing verification of incapacity as a condition of eligibility for the family. To prove incapacity, there must be an impairment which is expected to last at least 30 days and is verified by competent medical information such as the following:
* * * * *

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

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

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

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

(ii) Unemployment is defined as: having no work, having part-time work or having "on-the-job" training in a project that is approved or recommended by the JS or the [ETP] RESET.
* * * * *

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

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

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

* * * * *

* * * * *

(ii) The parent had worked for 6 or more calendar quarters in a 13-calendar quarter period ending within the 12-month period prior to the date of application. Activities as specified in clauses (D) and (E) may be used to qualify for no more than 4 of the required 6 calendar quarters. In a calendar quarter, which is defined as a period of 3 consecutive calendar months ending on March 31, June 30, September 30 or December 31, the parent shall have:

* * * * *

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

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

* * * * *

(3) *Transfers between CU and C grant groups.* Transfers between CU and C grant groups will be governed by the following:

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

* * * * *

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

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

(i) The Acknowledgment of Paternity form [(H105.181)] is used to establish paternity of a child born out-of-wedlock in cases where assistance is requested/received on behalf of a child born out-of-wedlock and the putative father voluntarily consents to establishing a claim of paternity by signing the form. The following procedures apply:

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

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

* * * * *

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

GENERAL RESET PROVISIONS

§ 165.1. General.

(a) A recipient who is not exempt shall be enrolled in the [ETP] Road to Economic Self-Sufficiency Through Employment and Training (RESET) Program. An exempt individual may volunteer to be enrolled in [the ETP] RESET. [A recipient] Applicants and recipients shall be informed of rights and responsibilities, services and benefits available to participants in the Program. [Enrollees may volunteer to participate in the ETP. Volunteers, whether exempt or nonexempt, will be given the highest priority for services to the extent that resources permit.] Nonexempt applicants shall agree to comply with the requirements of RESET and nonexempt recipients will be required to participate in RESET and to seek employment, accept any bona fide offer of employment and maximize and maintain employment as required by §§ 141.41, 141.61, 165.31 and 165.61. In addition, nonexempt recipients shall accept referral to, participate in and continue to participate in an available and approved work or work-related activity, whichever is applicable, including those specified on the AMR, as required in §§ 141.41, 141.61, 165.31 and 165.61. Nonexempt recipients also may not voluntarily terminate employment, reduce earnings or fail to apply for work, as required in §§ 141.41, 141.61, 165.31 and 165.61.

(b) [The ETP] The Department will provide Program participants, to the extent necessary, with case management and approved supportive services. In addition, participants will be provided with or referred to education, training and employment-related activities designed to break the cycle of welfare dependency. [The ETP] To the extent it deems possible, the Department will identify and promote resources in the public and private sectors that [will] may assist participants to prepare for and obtain employment in jobs they may realistically be expected to obtain.

§ 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 noncontractual agreement completed by the [client] applicant/recipient and the [employment and training worker] Department which, among other things, establishes an individual employment goal with specific time frames and work and work-related activities to achieve the goal.

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

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

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

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.

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

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

Exempt—Individuals who are not required to be enrolled in [the ETP] RESET.

* * * * *

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

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

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

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

* * * * *

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

* * * * *

[VERIFICATION]

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

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

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

ENROLLMENT AND EXEMPTIONS FROM ENROLLMENT

§ 165.21. Enrollment.

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

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

(c) A recipient will be enrolled in [ETP] RESET unless the person is exempt because the person is one of the following:

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

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

* * * * *

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

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

(2) [Sixty years of age or older.

(3) Incapacitated due to drug or alcohol dependency.

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

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

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

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

(5) [The parent or other [caretaker/relative] caretaker who is personally providing care for a child [2] under 6 years of age [or younger, except as provided in subsection (d)] for whom 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 [or younger or attends, full time, an elementary, secondary, vocational or technical school, except that a child who had previously withdrawn and has been placed in a secondary, vocational or technical school as a required ETP activity is not exempt]. The child of school age is required to pursue a high school diploma or a certificate of high school equivalency.

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

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

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

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

§ 165.22. Verification of exemption.

(a) The applicant or recipient is required to cooperate in providing necessary information and verification regarding the basis for exemption. The CAO will assist an individual in obtaining verification when help is needed.

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

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

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

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

(2) Failure to verify the claim for an exemption will result in the person being enrolled in RESET unless the person has cooperated and verification is unavailable.

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

§ 165.25. Enrollment after an exemption ends.

A person who was formerly exempt is required to participate in a work or work-related activity in accordance with the following:

(1) An individual who is exempt due to a physical or mental disability is required to participate:

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

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

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

(3) An exempt individual under 18 years of age is required to participate when the individual:

(i) Reaches 18 years of age, although the individual may be able to continue to pursue a high school or equivalency program after age 18 as a

work-related activity during the first 24 months of receipt of cash assistance.

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

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

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

(i) The child reaches 12 months of age.

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

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

RESET PARTICIPATION REQUIREMENTS

§ 165.31. [Participation] RESET participation requirements.

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

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

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

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

(2) The long-term employment goal of the person as identified in the employment plan does not require a high school diploma or its equivalent.] *Requirements that always apply as conditions of eligibility or continuing eligibility for cash assistance.* Individuals who are not exempt under § 165.21 (relating to enrollment) shall seek and accept any bona fide offer of employment and maximize and maintain employment.

(i) Nonexempt individuals may not, without good cause, voluntarily terminate employment, or reduce earnings or fail to apply for work.

(ii) A nonexempt recipient's willful failure to comply with the requirements of this provision, without good cause, will result in the imposition of sanctions as set forth in § 165.61 (relating to sanctions).

(c) *First 24 months.* Nonexempt individuals who are not employed for an average of at least 20 hours per week are required to participate in a work-related activity as a condition of eligibility or continuing eligibility for cash assistance. Nonexempt individuals who are not employed for an average of at least 20 hours per week shall accept referral to, participate in and continue to participate in an available and approved work-related activity, including those specified on the AMR.

(1) The initial work-related activity is an initial job search for up to 8 weeks except as provided in paragraph (4) and subsection (h).

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

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

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

(i) Subsidized employment.

(ii) Work experience.

(iii) On-the-job training.

(iv) Community service.

(v) Workfare.

(vi) Vocational education.

(vii) General education.

(viii) English-as-a-second language.

(ix) Job skills training.

(x) Job search.

(xi) Job readiness/preparation activities.

(3) 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 for a maximum of 12 months.

(4) A recipient 18 years of age or older but under 22 years of age who does not have a high school diploma or its equivalent can fulfill the work-related activity requirement by pursuing a high school diploma or its equivalent.

(d) *After 24 months.*

(1) After receiving cash assistance for 24 months, whether the months are consecutive or interrupted, the recipient shall, as a condition of receiving cash assistance, participate for an average of at least 20

hours per week in any one or a combination of the following activities, as approved by the Department:

- (i) Unsubsidized employment.
- (ii) Subsidized employment.
- (iii) Work experience.
- (iv) Community service.
- (v) On-the-job training.
- (vi) Workfare.

(2) A nonexempt individual shall accept referral to, participate in and continue to participate in an available work activity, including those specified on the AMR. A nonexempt recipient's failure to comply with this section, without good cause, will result in the imposition of sanctions as set forth in § 165.61.

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

* * * * *

[(e)] (f) *Self-initiated education or training.* 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:

* * * * *

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

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

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

[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] Information indicating non-compliance with work or work-related requirements shall result in a review of compliance with these requirements. The purpose of a compliance review is to determine whether a recipient is willfully, and without good cause, not complying with work or work-related requirements. The case-

worker will inform the recipient of the need for a compliance review and the consequences of failing to participate in the compliance review. The [conciliation session shall] compliance review may be conducted in person [, at an agreed upon time, unless the recipient would prefer to have it] or by telephone according to the recipient's preference. When scheduling the compliance review, the caseworker will consider the recipient's schedule, including work and school obligations.

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

(c) A recipient who willfully fails, without good cause, to comply with work or work-related requirements is subject to sanction under § 165.61 (relating to sanctions). For a noncompliant recipient not subject to sanction, the caseworker will review program requirements, help identify obstacles to compliance, and with the recipient's participation, develop a new AMR to help achieve and maintain compliance.

§ 165.52. Good cause.

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

* * * * *

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

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

(11) The person 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) 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 living in the same home and transportation.

* * * * *

(15) 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 residence.

* * * * *

(17) The person is claiming to be exempt from **[ETP] RESET** enrollment under §**[165.21(c)(1)] 165.21** (relating to enrollment) and is cooperating in an attempt to provide verification.

* * * * *

SANCTIONS

§ 165.61. Sanctions.

(a) A sanction will be imposed on an individual who is required **[but willfully fails without good cause]** to participate in **[the ETP, fails] RESET and, 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 participation in a work or work-related activity as specified in the AMR.**

(4) **Fails to accept referral to, participate in, or continue participation in an available and approved work or work-related activity.**

(5) **Fails to seek employment.**

(6) **Fails to maximize employment.**

(7) **Fails to maintain employment.**

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

(9) **Fails to participate in one of the following work-related activities if not employed at least 20 hours per week during the first 24 months of receiving cash assistance:**

(i) **Subsidized employment.**

(ii) **Work experience.**

(iii) **On-the-job training.**

(iv) **Community service.**

(v) **Workfare.**

(vi) **Vocational education.**

(vii) **General education.**

(viii) **English-as-a-second language.**

(ix) **Job skills training.**

(x) **Job search.**

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

(10) **Fails to participate for an average of at least 20 hours per week in one of the following work activities after receiving 24 months of cash assistance:**

(i) **Unsubsidized employment.**

(ii) **Subsidized employment.**

(iii) **Work experience.**

(iv) **Community service.**

(v) **On-the-job training.**

(vi) **Workfare.**

(11) **Fails to agree to fulfill the work or work-related activity requirements.**

(12) **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, 30 days or until the recipient is willing to comply, whichever is longer.**

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

(3) **For the third occurrence, permanently.**

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

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

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

(d) **[The sanction period shall be:**

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

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

(3) **For the third occurrence and thereafter, 6 payment months or until the failure to comply ceases, whichever is longer.] In lieu of the sanctions in subsections (b) and (c), if an employed individual voluntarily, without good cause, reduces his earnings during the first 24 months that assistance is received by not working an average of at least 20 hours per week, the grant is 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. The reduction continues until the requirement is met.**

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

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

NOTIFICATION

§ 165.71. Notification.

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

(b) An individual whose failure to comply results in a sanction will be reminded in writing [when 3 months have elapsed] of the individual's option to end the sanction by correcting the failure to comply.

* * * * *

Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 177. RESOURCES

TREATMENT OF RESOURCES

§ 177.21. Personal property.

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

* * * * *

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

* * * * *

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

* * * * *

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

* * * * *

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

(13) Student financial assistance for educational expenses in the form of loans, grants and scholarships.

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

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

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

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

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

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

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

* * * * *

§ 177.22. Real property.

* * * * *

(b) *Nonresident property owned by an applicant or recipient.* Nonresident property, including a burial space, is considered in the following manner:

* * * * *

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

* * * * *

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

will be extended for additional 9-month periods as long as the Department determines that the budget group is continuing to make a good-faith effort to sell the property.

* * * * *

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

§ 177.24. Determining value of resources.

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

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

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

[(A)] (i) * * *

[(B)] (ii) * * *

[(C)] (iii) * * *

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

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

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

* * * * *

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

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

§ 178.11. Categories of NMP-MA.

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

* * * * *

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

* * * * *

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

* * * * *

§ 178.12. Categories of MNO-MA.

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

* * * * *

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

* * * * *

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

* * * * *

Subchapter C. TANF-RELATED AND GA-RELATED CATEGORIES OF MA

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

§ 178.151. Additional resource requirements.

* * * * *

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

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

* * * * *

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

§ 178.161. Personal property exclusions.

The following personal property is excluded:

* * * * *

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

(13)] * * *

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

(15)] (14) * * *

[(16)] (15) * * *

(16) Student financial assistance for educational expenses in the form of loans, grants and scholarships.

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

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

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

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

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

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

ADDITIONAL RESOURCE EXCLUSIONS FOR GA CATEGORIES OF MA

§ 178.165. Educational savings accounts.

(a) For GA categories of MA, an educational savings account established by an individual at a bank or other financial institution to pay for education expenses

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

* * * * *

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

* * * * *

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

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

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

CATEGORIES OF MA

§ 181.41. Categories of NMP-MA.

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

* * * * *

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

* * * * *

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

* * * * *

CATEGORIES OF MA

§ 181.42. Categories of MNO-MA.

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

* * * * *

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

* * * * *

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

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

* * * * *

Subchapter C. THE [AFDC] TANF AND GA CATEGORIES

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

§ 181.251. NMP-MA gross income test for [AFDC] TANF categories.

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

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

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

* * * * *

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

* * * * *

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

(4)] * * *

[(5)] (4) * * *

[(6)] (5) * * *

[(7)] (6) * * *

[(8)] (7) * * *

[(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) * * *

* * * * *

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

§ 181.262. Educational loans and grants.

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

(1) Federal loans and grants to undergraduate students made or insured under a program administered by the Secretary of the United States Department of Education.

(2) College Work Study Program (CWSP) earnings of undergraduate students.

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

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

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

The following types of income are not counted for the [AFDC] TANF and GA categories:

* * * * *

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

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

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

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

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

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

§ 181.287. Educational assistance.

[Educational assistance from scholarships, grants and loans not exempted in § 181.262 (relating to educational loans and grants) is counted as unearned income unless the applicant/recipient verifies that the educational assistance has been, or is being, used for tuition, mandatory fees, books related to the courses of study or child care and transportation costs—if not residing in college housing and necessary for school attendance. If one payment of educational assistance covers more than 1 month, the amount not used for verified educational expenses is averaged over the period covered by the educational assistance.] Federally-funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income, unless the assistance is provided solely to meet basic living needs.

DEDUCTIONS FROM INCOME FOR THE [AFDC] TANF AND GA CATEGORIES

§ 181.311. Deductions from earned income for the [AFDC] TANF categories of NMP-MA.

Each employed person who qualifies for MA in the PC category, PU category or in the [PD/PK] PD category with PC category children is entitled to the following deductions from earned income in the following order:

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

(2) [*Initial work*] *Earned income incentive [deduction] deductions.* [A work incentive deduction of \$30 plus 1/3 of the remainder of the earned income which is treated as follows:]

(i) Each employed person in the NMP-MA applicant/recipient group is eligible to receive [the] an earned income incentive deduction [for 4 consecutive months] if one of the following applies:

(A) The employed [recipient] person in the NMP-MA applicant/recipient group is a recipient in [an AFDC-related] a TANF-related category or [in] a GA-related category with a child who is simultaneously a recipient of MA in [an AFDC-related] a TANF-related category.

(B) The employed applicant has been a recipient of cash assistance, NMP-MA or MNO-MA in [an AFDC-related] a TANF-related category in [one] 1 of the 4 calendar months prior to the calendar month of his application for NMP-MA.

(C) The employed applicant has been a recipient of cash assistance, NMP-MA or MNO-MA in a GA-related category with a child who was simultaneously a recipient of MA in [an AFDC-related] a TANF-related category in [one] 1 of the 4 calendar months prior to the calendar month of his application for NMP-MA.

* * * * *

(ii) [The employed applicant/recipient who received the \$30 and 1/3 incentive deduction for 4 consecutive months, has not received the deduction since] Each employed person in the applicant/recipient group who meets one of the requirements in subparagraph (i) is eligible to receive a continuous 50% earned income incentive deduction or the first \$90 per month work expense deduction from earned income and a \$30 plus 1/3 remainder earned income incentive deduction per requirements in subparagraph (iii), whichever is most advantageous to the applicant/recipient group.

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

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

(I) [12] Twelve or more consecutive months have elapsed since the employed applicant/recipient last received NMP-MA in [an AFDC-related] a TANF-related category or in a GA-related category with a child who was simultaneously a recipient in [an AFDC-related] a TANF-related category. The count begins with the first month following the month of termination for NMP-MA regardless of whether the employed person received the entire 8 consecutive months of the \$30 income incentive deduction described in [paragraph (4)] clause (B).

[(iii)] (II) * * *

[(A)] (-a-) * * *

[(B)] (-b-) * * *

[(iv)] (III) An applicant/recipient who has his NMP-MA terminated due to receipt of a regularly recurring extra paycheck within a 5-week month is not considered to have had an interruption in the accumulation of consecutive months and does not have that month count as one of the 4 consecutive months. The applicant/recipient shall meet one of the qualifications described in subparagraph (i) to qualify for a balance remaining in the 4-month count unless 12 consecutive months have elapsed in which he has not been a recipient of NMP-MA in [an AFDC-related] a TANF-related category or in a GA-related category with a child who was simultaneously a recipient in [an AFDC-related] a TANF-related category. If 12 consecutive months have elapsed, the employed applicant/recipient is eligible for a new 4 consecutive month count.

[(v)] (IV) * * *

(B) Each employed person in the applicant/recipient group who received 4 months of the \$30 plus 1/3 income incentive deduction is eligible for an income deduction of \$30 per month during the next 8 consecutive months. The application of the \$30 incentive is treated as follows:

(I) Each employed person in the applicant/recipient group is eligible to receive the deduction for 8 consecutive calendar months.

(II) The applicant/recipient is entitled to the \$30 income incentive deduction during a calendar month of the 8-month period for which the income of the applicant/recipient is sufficient to qualify.

(III) The 8 months of eligibility for the \$30 income incentive deduction begins with the calendar month following the end of the 4 consecutive calendar months of the \$30 and 1/3 income incentive deduction.

(IV) The 8 months of eligibility are counted consecutively, whether or not MA is interrupted or income is sufficient to qualify for it.

* * * * *

[(4) Other work incentive deduction. A work incentive deduction of \$30 per month of the earned income after 4 consecutive months of the \$30 plus 1/3 of the remainder has been received is treated as follows:

(i) Each employed person in the NMP-MA applicant/recipient group is eligible to receive the deduction for 8 consecutive calendar months.

(ii) The applicant/recipient is entitled to the \$30 income incentive deduction during a calendar month of the 8-month period for which the income of the applicant/recipient is sufficient to qualify.

(iii) The 8 months of eligibility for the \$30 income incentive deduction begins with the calendar month following the end of the 4 consecutive calendar months of the \$30 and 1/3 income incentive deduction.

(iv) The 8 months of eligibility are counted consecutively, whether or not MA is interrupted or income is sufficient to qualify for it.]

CHAPTER 183. INCOME
EARNED INCOME

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

[For assistance purposes, income-in-kind is shelter received in return for services rendered and is counted as earned income. The value of income-in-kind is the difference between the amount of the monthly rent actually paid and the amount of monthly rent which the individual would have been charged if he had not rendered a service. This value is not to exceed 33% of the family size allowance of the budget group or if the family size allowance is divided between two or more budget groups, 33% of the combined total family size allowance.]

UNEARNED INCOME

§ 183.38. Educational assistance.

[Educational assistance from scholarships, grants and loans not exempted in § 183.81(3)(i) and (ii) (relating to income exemptions) is considered in determining eligibility. Only the amount which the person cannot verify as being used for tuition, mandatory fees, books related to the courses of study, child care expenses and transportation costs—if not residing in college housing and necessary for school attendance—is counted as income. If the educational assistance is received in one payment, average the income over the period covered by the loan, scholarship or grant.] Federally-funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income unless the assistance is provided solely to meet basic living needs.

GROSS INCOME TEST

§ 183.71. Gross income test.

(a) [A] An applicant budget group is ineligible for [AFDC/GA] TANF/GA for a calendar month determined prospectively, if the total gross earned and unearned income for a calendar month equals or exceeds the Income Eligibility Limit—Appendix B, Table 2 (relating to income eligibility limit (185% of standard of need))—or, if a special need exists, 185% of the sum of the special need allowance added to the standard of need—Appendix B, Table 1 (relating to standard of need). The Income Eligibility Limit and the standard of need are based on the size of the budget group and the schedule which is applicable to the county in which the budget group

resides. The gross earned and unearned income of a recipient budget group is not subject to the gross income test.

* * * * *

INCOME EXEMPTIONS

§ 183.81. Income exemptions.

The following income is not considered in determining the amount of the monthly assistance payment:

* * * * *

(3) *Educational loans and grants.* Educational loans and grants to students are considered as follows:

(i) [Federal loans and grants to undergraduate students made or insured under a program administered by the Commissioner of Education are excluded.] Federally-funded student financial assistance, including college work-study income, is excluded as income. All other student financial assistance provided for educational expenses in the form of loans, grants and scholarships is excluded as income unless the assistance is provided solely to meet basic living needs.

* * * * *

[(iii) Educational assistance from the Veterans' Administration received by a veteran is excluded only to the extent verified as used for educational expenses.

(iv) Grants and scholarships or awards from colleges, schools or from civic, fraternal and alumni organizations are excluded only to the extent verified as used for educational expenses.]

* * * * *

(29) *Support pass-through.* The first \$50 per budget month of court-ordered and voluntary support payments received by the budget group, excluding arrearages.

* * * * *

INCOME DEDUCTIONS

§ 183.94. Eligibility for TANF earned income deductions.

[For expenses related to employment of each individual in the TANF budget group, subject to the limitations in § 183.97 (relating to ineligibility for disregards from earned income for [AFDC] TANF and GA), [disregard in the following order] the earned income of each employed individual in the TANF budget group is treated as follows:

(1) [*Work expenses.* The first \$90 per month from the earned income of each client who is employed.] An applicant who has been a recipient of TANF in 1 of the 4 calendar months prior to this application is eligible to receive a continuous 50% disregard from gross earned income.

(2) [*Earned income incentive deduction.* As an incentive to eligible AFDC clients to obtain and retain employment, earned income incentive deductions, subject to the limitations in § 183.96 (relating to interruptions in the 4 consecutive months of the earned income incentive deduction for AFDC and GA) and § 183.97, are made as follows:] The applicant who has not been a recipient of TANF in one of the 4 calendar months prior to this application is

eligible to receive a continuous 50% disregard if the applicant's income after application of the following deductions is less than the standard of need for the budget group as specified in Appendix B, Table 1 (relating to standard of need).

(i) [After the deduction allowed in paragraph (1) has been made, each employed client is eligible for a deduction of \$30 plus 1/3 of the remaining net earned income during 4 consecutive calendar months of employment.] The first \$90 per month from gross earned income.

(ii) [After the deduction allowed in paragraph (1) has been made, each employed client is eligible for a deduction of \$30 during the next 8 consecutive months of employment. An applicant or recipient is entitled to the \$30 income incentive deduction during any calendar month of this 8-month period for which the income of the applicant or recipient is sufficient to qualify. The 8 months of eligibility are counted consecutively, beginning with the calendar month following the end of the 4 consecutive calendar months in which the \$30 and 1/3 income incentive deduction was allowed, whether or not assistance is interrupted or income is sufficient to qualify for it.] Personal expenses subject to the limitations of paragraph (3).

(iii) [An applicant who has been a recipient of AFDC in 1 of the 4 calendar months prior to this application is eligible to receive the full \$30 and 1/3 income incentive deduction for 4 consecutive calendar months subject to the limitations in subparagraph (v).] Unearned income and lump sum income deductions as specified in § 183.98 (relating to unearned income and lump sum income deductions).

[(iv) An applicant who has not been an AFDC recipient in 1 of the 4 calendar months prior to this application is eligible to receive the full \$30 and 1/3 income incentive deduction for 4 consecutive calendar months only if the applicant's income, after deductions in paragraphs (1) and (3) and § 183.98 (relating to unearned income and lump sum income deductions) is less than the standard of need for the budget group, and subject to the limitations in subparagraph (v).

(v) An applicant or recipient who has received the \$30 and 1/3 income incentive deduction for 4 consecutive calendar months is not eligible to receive the deduction again until 12 consecutive calendar months have elapsed in which he has not been a recipient of an AFDC cash grant. When assistance is terminated during the 8 consecutive calendar month period of the \$30 income incentive deduction, the 12 consecutive months begin in the first month following the month of termination.]

* * * * *

§ 183.96 [Interruptions in the 4-consecutive months of the earned income incentive deduction for AFDC and GA] (Reserved).

[(a) An individual who has not received the earned income incentive disregard for 4 consecutive payment months because of application of § 183.97 (relating to ineligibility for disregards from earned income for AFDC and GA) is deemed to have received the disregard in the month of dis-

qualification, and a month of disqualification counts for purposes of the 4 consecutive month period.

(b) An individual who does not receive a cash payment in a month because of the \$10 minimum check requirements has that month counted for the purpose of the 4 consecutive months.

(c) For AFDC, if there is no earned income to be adjusted against the grant after the application of § 183.94(1) and (3) (relating to AFDC earned income deductions), that month does not count as one of the 4 consecutive months for an individual. The individual is eligible for a new 4 consecutive month period.

(d) An individual who has had a grant suspension or termination due to receipt of a regularly recurring extra paycheck within a 5-week month is not considered to have had an interruption in the accumulation of consecutive months, and does not have that month count as one of the 4 consecutive months. The individual is eligible to receive the incentive for the balance remaining in the 4-month period.

(e) An individual whose receipt of 4 consecutive months of work incentive is interrupted by loss of income with good cause, as defined in Chapter 165 (relating to Employment and Training Program) is eligible for a new 4 consecutive month period.]

§ 183.97. Ineligibility for disregards from earned income for [AFDC] TANF and GA.

The deductions in §§ 183.94 and 183.95 (relating to [AFDC] eligibility for TANF earned income deductions; and GA earned income deductions) do not apply to the budget month income considered for the corresponding payment month for an applicant or recipient to whom one of the following conditions applies:

* * * * *

[(4) He voluntarily requested that assistance be terminated for the primary purpose of avoiding receipt of the earned income incentive for 4 consecutive months.]

CHAPTER 187. SUPPORT FROM RELATIVES NOT LIVING WITH THE CLIENT

SUPPORT PROVISIONS FOR [AFDC/GA] CASH ASSISTANCE

§ 187.21. [Policy] General policy.

[(a)] *Legal bases for support requirements.* The Support Law (62 P. S. §§ 1971—1977) provides authority to the courts to order or direct support to needy persons from legally responsible relatives (LRR) upon petition from the needy person or the Department. The Public Welfare Code (62 P. S. §§ 101—1503) requires the Department to grant assistance only to those persons who [are without sufficient resources to maintain themselves] apply for and meet all conditions of eligibility. By law, then, [LRR's] LRRs will be a potential resource to persons applying for or receiving assistance. The Support Law (62 P. S. §§ 1971—1977), 23 Pa.C.S. §§ 4301—5104 and 7101—8415 and the Public Welfare Code (62 P. S. §§ 101—1503) mesh to make it mandatory to explore and develop the resource that an LRR may provide to a client. Under the child support program, support collection and paternity determination ser-

vices will also be made available upon request to persons who are not applying for or receiving assistance. The domestic relations section in each county has been designated to process requests for support services.

[(b) *Automatic assignment of support rights to the Department.* Acceptance of public assistance operates as an assignment to the Department, by operation of law, of the assistance recipient's rights to receive support on his own behalf and on behalf of any family member with respect to whom the recipient is receiving public assistance. The assignment is effective at the time the recipient is determined to be eligible for public assistance and remains in effect until the termination of public assistance payments. The assignment shall be effective only up to the amount of AFDC/GA received.

(c) *Responsibilities of Claim Settlement Child Support Unit.* The Bureau of Claim Settlement Child Support Unit will have the responsibility for securing support in cases involving desertion or abandonment. The Support Unit responsibilities will include, but will not be limited to the following:

- (1) Assisting, when necessary, in locating absent parents.
- (2) Establishing and enforcing support orders.
- (3) Initiating legal action for establishing paternity for a child born out-of-wedlock.
- (4) Collecting support payments.

(d) *Effect of automatic support order assignment on the grant.* When the applicant is determined eligible for assistance, the assistance unit is entitled to receive the appropriate family size allowance. Payments received from a support order will not be adjusted as income.

(e) *Treatment of support collections.* For those cases where support payments have been made payable to the Department, the Bureau of Claim Settlement Child Support Unit will transmit to the County Assistance Office a monthly printout of the amount of collection received which represents a current payment on the required support obligation for that month. This information will be used by the County Assistance Office to determine if the money collected through support order, when treated as income, will be sufficient to make the family ineligible for an assistance payment. If the case is determined ineligible on this basis, the support collection will be considered as income and the County Assistance Office will be responsible for the following:

- (1) Notifying the family of closing action and reason via the Form 162-A process.
- (2) Promptly transmitting this closing action, via Form PA 293, to Claim Settlement Support Liaison Agent assigned to the CAO for processing so that the support payments can be mailed directly to the family. The worker will prepare the Form PA 293 for transmittal at the same time the worker prepares the Form PA 764, Authorization for Case Closing.

(f) *Timing the effect.* Timing the effect of support collections will conform with the following:

(1) An essential component in the treatment of support collections is the rapid and complete interchange of information between the County Assistance Office and the Claim Settlement Child Support Unit. This is necessary to insure the families continued receipt of income.

(2) The Claim Settlement Child Support Unit will transmit the notification, or printout, of support collections received to the County Assistance Office at the beginning of the month following the month of collection.

(3) Upon receipt of this information, the County Assistance Office will determine the eligibility of the family for an assistance payment as soon as feasible, but no later than the second month after the month in which the notification is received by the CAO.

(g) *Form PA 293 (Child Support Action Notice).* Use of Form PA 293 will be as follows:

(1) The County Assistance Office will use the Form PA 293, Child Support Action Notice, to transmit information to the Child Support Unit regarding case dispositions for spouse and parent of unemancipated minor children.

(2) Whenever a child support case is discontinued, transferred to another county, or reopened within a period of ninety days following closure, the County Office will complete the Form PA 293 in duplicate, identifying the appropriate action taken. This form will be forwarded to the Child Support Unit at the same time the appropriate budget action is taken in the case. A copy of the Form PA 293 is retained in the case record.

(3) From the information transmitted on the Form PA 293, the Child Support Unit will determine the appropriate action to be taken by the Agency with regard to support services currently received by the client, such as reassignment of an existing court order to the beneficiary, and the like.]

§ 187.22. Definitions.

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

[*Alimony*—An order for support granted by the court to a spouse or former spouse in conjunction with a decree grant, a divorce, or annulment.]

Arrears—Past due and unpaid support.

BCSE—Bureau of Child Support Enforcement—The organizational unit in this Commonwealth responsible for supervising the State Plan for Child Support Enforcement under Title IV-D of the Social Security Act (42 U.S.C.A. §§ 651—669b).

Budget group—One or more related or unrelated individuals who occupy a common residence or would occupy a common residence if they were not homeless individuals and whose needs and eligibility are considered together in determining eligibility for cash assistance under one category of assistance.

CAO—County assistance office—The local office of the Department responsible for the determination of eligibility for cash, food stamps and MA Programs.

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

[**Child**—Natural or adopted under 21 years of age.

Child born out-of-wedlock—A child will be considered to be born out-of-wedlock in the following instances:

(i) When the mother of the child is unmarried when the child is born, except when marriage was terminated by death or divorce between conception and birth, or declared legally void.

(ii) The mother of a child born during marriage names a person other than her husband as the father of the child.

(iii) There is evidence that the husband of the mother of the child has been separated from the mother during the 12 months immediately prior to the birth of the child. When the natural parents of a child born out-of-wedlock marry at a later date, the child will become legitimated just as if he had been born during lawful marriage. In such a case, the father will become an LRR and the applicable LRR regulations will apply. Accordingly, pending paternity action will be terminated.]

DRS—Domestic relations section—The division of a court of common pleas responsible for establishing and enforcing support orders.

Establishing paternity—The process that determines the legal father of a child.

[**LRR—Legally Responsible Relative**—Husband, wife or parents of an unemancipated minor child. A putative father is not an LRR unless one of the following conditions applies:

(i) Paternity is legally established by court action.

(ii) The child born out-of-wedlock is legitimated by the legal marriage of the mother of the child to the putative father.

(iii) The putative father signs an Acknowledgement of Paternity form, H105.181, under § 153.44(e)(1) (relating to procedures) for a child born within this Commonwealth, which is filed with the Department of Health, and one of the following conditions exists:

(A) The mother also signs the Acknowledgement of Paternity form.

(B) The putative father lives with the child for whom paternity is being claimed and the mother is the absent parent.]

LRR—Legally responsible relative—The spouse, including common-law, of the applicant/recipient of cash assistance, and 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 imposed by a court or an administrative agency of competent jurisdiction for the support and maintenance of either a child or spouse, or both, which provides for monetary support, health care, arrears or reimbursement, and which may include other relief.

Unemancipated minor child—An individual who is under 18 years of age, or an individual 18 years of age or older but under 21 years of age, who has not graduated from high school, is not married and is in the care and control of a parent or caretaker.

§ 187.23. Requirements.

(a) [**Unemancipated minor children**. Because the responsibility of a parent for an unemancipated minor child is seen as greater than that for the spouse, separate requirements have been established for securing support from absent parents for their children. The requirements will be applicable to recipients or applicants for AFDC when the child's eligibility is based on absence of a parent from the home and, when the child is born out-of-wedlock, without regard to whether paternity has been established.] **Applicability**. This chapter applies to applicants for and recipients of cash assistance if there is: The reported absence of a parent from the home of an unemancipated minor child; a putative father for an unemancipated minor child; or a spouse absent from the home. The absence of a parent from the home is determined according to the requirements under § 153.44(a) (relating to procedures).

[(1) **Referral to Domestic Relations Section**. Referral to DRS will conform with the following:

(i) When the eligibility of a child for AFDC is based on continued absence of a parent from the home, prior to the application interview, the applicant parent or other caretaker with whom the child is living will be referred to the DRS, with the Application for Support Services form. The applicant shall return the form to the CAO worker, completed by a DRS official, as verification of DRS action taken.

(ii) DRS referral will not be required in the following circumstances:

(A) The applicant parent/caretaker provides verification of a support complaint having been filed within the last 90 days.

(B) The applicant parent/caretaker provides verification of an existing Order of Support having been established within the last 12 months.

(C) The applicant parent/caretaker initiates a good cause claim as set forth in subparagraph (iii).

(D) A mutual agreement exists between the DRS and the Department regarding local referral procedures.

(iii) The CAO worker will provide an AFDC applicant parent/caretaker with the opportunity to claim good cause as an exception to cooperation requirements, prior to the application interview. If the applicant initiates a claim for good cause as set forth in paragraph (3), the Application for Support

Services form will be completed, but no support activity initiated pending final disposition of the good cause claim.

(2) *Cooperation.* As a condition of continued eligibility for AFDC under § 141.21(a) (relating to policy), a caretaker/relative with whom the child is living will be required to cooperate with the Department in identifying and locating the absent parent, establishing the paternity of a child born out-of-wedlock and obtaining support payments, unless a claim for good cause is pending or determined to exist, as provided in paragraph (3). The term Cooperate includes the following:

(i) Appearing at the offices of the local CAO or DRS as necessary to perform the following:

(A) Provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or recipient caretaker/relative that is relevant to achieving support from the absent parent.

(B) Sign the necessary legal forms required to file petitions for support.

(ii) Appearing as a witness at court or other hearings or proceedings necessary to achieve support from the absent parent.

(iii) Paying to the Claim Settlement Support Agency child support payments received from the absent parent after an assignment of support rights has been made to the Department and the client is receiving a full allowance. Payments will be turned over to the Child Support Agency only because the client will be receiving a full assistance check.

(3) *Good cause as an exception to cooperation requirements.* Cooperation requirements will be waived if the caretaker/relative establishes that he has good cause for refusing to take support or paternity action or both against the absent parent or putative father, because to do so would not be in the best interest of the child. Prior to requiring cooperation, the CAO will notify an applicant or recipient of the right to claim good cause and the requirements applicable to a good cause determination. Form PA 173-WP will be used as the good cause notice to the applicant or recipient. The Form PA 173-WP sets forth the circumstances under which the caretaker/relative may claim good cause and lists the types of evidence the client may present to corroborate his claim as provided in subparagraphs (i) and (ii).

(i) Circumstances under which cooperation may be against the best interest of the child are as follows:

(A) The client's pursuit of paternity or support action is reasonably expected to result in either of the following:

(I) Serious physical or emotional harm to the child.

(II) Serious physical or emotional harm to the mother or other caretaker/relative with whom the child is living to the degree that it reduces his capacity to care for the child adequately.

(B) The child was conceived as a result of incest or rape.

(C) Legal proceedings for the adoption of the child are pending before a court.

(D) The relinquishing of the child for adoption is currently under resolution with a public or private social agency and discussions have not gone on for more than 3 months.

(ii) A good cause claim may be corroborated with the following types of evidence:

(A) Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or other caretaker/relative.

(B) Medical records which indicate the emotional health history and present emotional health status of the child or caretaker/relative; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the child or caretaker/relative.

(C) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or rape.

(D) Court documents or other records which indicate that legal proceedings for adoption are pending.

(E) A written statement from a public or private Social Agency that the caretaker/relative is currently being assisted by the Agency to resolve the issue of whether to keep the child or relinquish him for adoption.

(F) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

(iii) The applicant or recipient caretaker/relative has the burden of proving the existence of his good cause claim and must provide the corroborative evidence required to support the claim within 20 days from the day the claim was made. In exceptional cases, when it has been determined, with supervisory approval, that additional time will be needed by the client because of difficulty in obtaining the evidence, a reasonable additional period of time will be granted.

(iv) If requested by the caretaker/relative, the county staff will provide assistance in securing the needed evidence by advising how to obtain specific documents that may be available to him and by undertaking to obtain any specific documents the client is not able to obtain on his own.

(v) In exceptional cases where the applicant or recipient's claim is based on the anticipation of physical harm and he is unable to provide corroborative evidence to support the claim because none is available, the caretaker/relative must assume the burden for establishing the credibility of the claim without the required evidence, as well as explaining why no evidence is available. In these situations, the county staff will conduct an investigation of the claim, the results of which should verify the credibility of the client. If the caretaker/relative's statement and the investigation which is conducted satisfies the county staff that the client does have good cause for refusing to cooperate, the claim will be considered as valid without corroborative evidence. The basis for this decision which is subject

to supervisory review and approval, will be recorded in the case record.

(vi) In cases where the caretaker/relative's statement of the circumstances, together with the corroborative evidence supplied do not provide sufficient basis for making a determination, the county staff may find it necessary to conduct an investigation of the claim in order to determine whether good cause does, or does not exist. If an investigation is deemed necessary, the caretaker/relative will be required to provide the county staff with sufficient information, such as, name and address of the putative father or absent parent, if known, to permit the investigation. However, the absent parent or putative father will not be contacted unless determined to be necessary to establish the good cause claim of the caretaker/relative. The county staff will notify the caretaker/relative prior to making contact with the absent parent or putative father to enable him to present additional corroborative evidence or information so that the contact becomes unnecessary, withdraw the application for assistance, have the case closed, or have the good cause claim denied with the right to appeal and a fair hearing as provided under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(A) *Determining good cause for refusing to cooperate.* In cases where the applicant or recipient caretaker/relative initiates a claim of good cause as an exception to cooperation requirements, the County staff will make a finding as to whether good cause exists. This finding will be based on the corroborative evidence supplied by the client and the investigation if deemed necessary. The good cause determination will be made on a case-by-case basis and the final decision requires a subjective judgment on the part of the County staff. The decision will be based on the weight, sufficiency, and quality of the gathered evidence.

(i) The County staff will make a determination as to whether or not good cause exists within a time frame of 45 days from the day the good cause claim was initiated by the caretaker/relative. If additional time is needed to verify the client's claim because the information required cannot be obtained within the 45-day time frame, or the client did not provide corroborative evidence within the period required as set forth in paragraph (3)(iii), the worker will record this information in the case record.

(ii) In situations where investigation of a good cause claim is necessary, the determination will be based on any verifying information secured that will corroborate the statements of the applicant/caretaker/relative regarding the circumstances. The good cause circumstance must be confirmed by the investigation and supported, to the extent possible, by written statements.

(iii) In determining good cause based on physical or emotional harm to the parent, the circumstances must be of a serious nature that they would reduce the capacity of the applicant/caretaker/relative to care for the child or children adequately. In situations where the good cause claim is based solely on anticipation of emotional harm to the child or caretaker/relative, the corroborative or documentary evidence provided by the client to support this claim should indicate the emotional health history

of the caretaker/relative or the child, the present emotional health status, the intensity and probable duration of the emotional impairment. Supportive evidence submitted from a mental health professional shall be defined as statements written by persons who have obtained licensure or certification, if applicable, or have received a degree in defined areas of mental health including, but not limited to, psychiatry, social work, psychology, nursing, occupational therapy, or recreational therapy. In making the good cause determination, the County staff will evaluate the evidence in relation to the degree of cooperation that will be required of the caretaker/relative as well as the extent to which the client will be involved in the support activity.

(iv) In the process of making a final determination of whether good cause does or does not exist, county staff will give the Child Support Unit the opportunity to review and comment on its findings and the basis for the decision proposed. Recommendations subsequently received from the Child Support Unit will be considered when making the final determination. The Child Support Unit will be subsequently notified of the final decision made on each case. Form PA 173-GC will be used for the interchange of information between County staff and the Child Support Unit.

(v) In a case where a claim of good cause has been initiated by the caretaker/relative, prior to making a final determination within the allotted 45-day time frame, the county staff will complete, in duplicate, the Form PA 173-GC good cause determination notice, indicating the proposed decision and basis for the decision. The Form PA 173-GC will be signed and dated by the worker and the original transmitted to the Child Support Unit for their review and recommendations. The Child Support Unit will subsequently be notified via the Form PA 173-GC, of the final decision made in a case as to whether or not the caretaker/relative has good cause for refusing to cooperate. If the caretaker/relative feels that the decision made is unfair, discriminatory or incorrect, he has the right to appeal and a fair hearing, as provided under Chapter 275. The Child Support Unit will be given the opportunity to participate in a hearing resulting from the appeal of the caretaker/relative.

(vi) In those cases where a finding of good cause has been made, the Child Support Unit will not attempt to establish paternity nor collect support. The caretaker/relative will be notified in writing of the final determination as to whether good cause does or does not exist, including basis for the determination, and the worker will record the decision and supporting evidence.

(vii) In cases where a claim for good cause is initiated by the caretaker/relative after the initial support referral has been made, the County Assistance Office will promptly notify the Child Support Unit, via memorandum, that a determination is pending to ensure that all support and paternity activities are suspended until notification of a final determination.

(viii) In cases where a finding of good cause was based on a circumstance that is subject to change, the decision will be reviewed by county staff at the time of a redetermination of eligibility. If it is

determined that the circumstances have changed and good cause no longer exists, cooperation requirements as set forth under paragraph (2) become applicable.

(ix) A statistical reporting form, SSA-4681, Case Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Support, will be used by the counties for reporting specific data required by the Department, relating to good cause claims. For a good cause claim, the county staff will complete a SSA-4681, in triplicate, and transmit the original and first copy of each form to the Department's Research and Statistical Unit at the end of each month. The second copy of the SSA-4681 will be retained in the case record or clerical control file.

(5) *Responsibilities of the County Assistance Office.* Except in those cases where a claim for good cause is pending or has been established, if the caretaker/relative fails to cooperate with the Domestic Relations Section or the Child Support Unit with regard to any one of the support activities specified in paragraph (2), the Child Support Unit will notify the County Assistance Office via memorandum.

(i) Upon receipt of the notification, the County Assistance Office will send a Form PA 162-A to the caretaker/relative proposing action to remove the caretaker/relative from the grant and establishing protective payment for the child or children by reason of failure to comply with cooperation requirements. The caretaker/relative subsequently will have the opportunity to take whatever action is required to establish continuing eligibility or appeal the decision, as set forth in § 133.4 (relating to procedures).

(ii) The CAO worker will be responsible for informing the caretaker/relative that the keeping of scheduled appointments with the DRS for interview with a Support Official is a condition of eligibility and that failure to comply will necessitate adverse action under subparagraph (i) in the case.

(6) *Responsibilities of the Domestic Relations Section.* The Domestic Relations Section of the court in a county has been designated as the Child Support Unit Intake Office to process requests for support. Responsibilities of the DRS in this regard will include the following:

- (i) Conducting initial support interviews.
- (ii) Filing petitions for support.
- (iii) Conducting prehearing conferences to determine special needs that may exist, such as health problems, doctor bills and the like.
- (iv) Initiating location activity on a local level.
- (v) Conducting prehearing conferences with client and defendant for possible reconciliation or settlement out of court.]

(b) [*Requirements for seeking support from a spouse.* Requirements for seeking support from a spouse will be as follows:] *Cooperation criteria for child support.* As a condition of eligibility for cash assistance, every applicant or recipient seeking or receiving cash assistance on behalf of an unemancipated minor child shall cooperate in es-

tablishing paternity of an unemancipated minor child with respect to whom assistance is sought and cooperate in obtaining support from an LRR for the unemancipated minor child, unless the applicant or recipient has good cause for failing to do so. Cooperation includes taking the following actions:

(1) [*General.* The following will constitute the general requirements for securing support from a spouse and the method used for determining the financial ability of the spouse to support:] Identifying the parents of an unemancipated minor child for whom assistance is sought or received, including appearing for scheduled genetic testing with the child and submitting to the testing.

(i) [The client will be required, as a condition of eligibility for assistance, to provide sufficient information about the location of the spouse. The client will be expected to assist in locating a missing LRR to permit a determination of the ability of the spouse to provide support or court action as provided in § 187.24(h) (relating to procedures).] Failure of the mother to identify by name the father of an unemancipated minor child shall create a presumption of noncooperation which may be rebutted only by clear and convincing evidence.

(ii) [Further steps to seek support will not be required whenever the information provided indicates that the spouse is either of the following:] If the applicant or recipient provides the names of two putative fathers subsequently excluded from paternity by genetic testing, the second exclusion shall create a presumption of noncooperation, which may be rebutted only by clear and convincing evidence.

[(A) Receiving assistance, including SSI or SBP.

(B) Mentally or emotionally unstable and the evidence clearly indicates that further efforts to obtain support would expose the client to danger or injury. The Executive Director or his delegate must approve this decision.]

(2) [*Providing information about the spouse's financial circumstances.* Information about the financial circumstances of the spouse will conform with the following:] Keeping scheduled appointments with the Department or the DRS.

[(i) The client may be able to provide the information himself or obtain it directly from the spouse. The County Assistance Office will help the client secure the information when necessary.

(ii) If the spouse refuses to provide the information and it cannot be obtained in any other way, court action is required, as set forth in § 187.24(h).

(iii) If the client refuses to provide the information or to take specific steps that appear warranted by the circumstances, including giving his consent for the County Assistance Office to contact the spouse directly, he will be advised that the Department will initiate court action in accordance with § 187.24(h), unless the client withdraws his request for assistance.]

(3) [*Providing information about the location of the spouse.* Information about the location of the

spouse shall be provided in accordance with the following:] Providing truthful and accurate information and documents requested by the Department or the DRS.

(i) When the whereabouts of a [spouse] parent or putative father are unknown, the [client] applicant or recipient will be required to take whatever steps are appropriate to the individual circumstances to locate the missing [spouse] parent or putative father. This may include contacting relatives and friends for information about the whereabouts of the [spouse] parent or putative father or giving consent to the [County Assistance Office] CAO to contact other agencies, relatives and other individuals, or possible employers and similar resources.

(ii) [County staff] The CAO will provide whatever help is appropriate to the individual circumstances of the [client needs] applicant/ recipient to assist in locating the missing [spouse] parent or putative father and supplement the efforts of the [client] applicant/recipient by checking appropriate governmental records [, such as OASDI, Bureau of Employment Security, Bureau of Motor Vehicles and the like] .

(iii) Together, [county staff] the CAO and [client] the applicant/recipient will plan and agree on the specific steps to be taken to locate the missing [spouse] parent or putative father. Assistance will be [granted] authorized or continued on the agreement of the [client] applicant/recipient to take the specific steps [that appear warranted by the circumstances. If the client refuses to seek the spouse or does not take steps agreed upon, or deemed necessary,] within the time set for doing so [, assistance will be discontinued for those members of the assistance unit for whom the missing relative is legally responsible] .

(4) Signing and returning any forms requested by the Department or the DRS.

(5) Appearing as a witness and providing testimony at judicial and other hearings as requested by the DRS.

(6) Paying to the Department any support payment received directly from an absent parent after an assignment of support has been made.

(c) *Cooperation criteria for spousal support.* As a condition of eligibility for cash assistance, every applicant or recipient seeking or receiving cash assistance on behalf of himself and for whom there is an absent spouse shall cooperate in obtaining support unless there is good cause for failing to do so. Cooperation includes the following:

(1) Naming the absent spouse.

(2) Keeping scheduled appointments with the Department or the DRS.

(3) Providing truthful and accurate information and documents requested by the Department or the DRS.

(i) When the whereabouts of a spouse are unknown, the applicant or recipient will be required to take whatever steps are appropriate to the individual circumstances to locate the missing

spouse. This may include contacting relatives and friends for information about the whereabouts of the spouse or giving consent to the CAO to contact other agencies, relatives and other individuals or possible employers and similar resources.

(ii) The CAO will provide whatever help is appropriate to the individual circumstances of the applicant/recipient to assist in locating the missing spouse and supplement the efforts of the applicant/recipient by checking appropriate governmental records.

(iii) Together, the CAO staff and the applicant/recipient will plan and agree on the specific steps to be taken to locate the missing spouse. Assistance will be authorized or continued on the agreement of the applicant/recipient to take the specific steps within the time set for doing so.

(4) Signing and returning any forms requested by the Department or the DRS.

(5) Appearing as a witness and providing testimony at judicial and other hearings as requested by the DRS.

(6) Paying to the Department any support payment received directly from an absent spouse after an assignment of support has been made.

(d) *Cooperation prior to authorization.* Except as provided in paragraphs (3) and (4), every applicant or recipient of cash assistance shall cooperate in establishing paternity and obtaining support. The applicant or recipient shall:

(1) Appear before the DRS or other applicable division of the court of common pleas and provide to the CAO certification from the DRS of cooperation by the applicant or recipient of cash assistance in establishing paternity and in obtaining support.

(2) Cooperate with the procedures established for the county when a waiver of the personal appearance requirement is in place. The Secretary is authorized to waive the personal appearance requirement under paragraph (1) if another procedure would be as effective and efficient and a family court or DRS requests a waiver.

(3) In the case of a newborn, cooperate with the requirements under § 133.23(b)(4)(v) (relating to requirements).

(4) File a good cause claim. The cooperation requirements are waived from the time a good cause claim is filed until the CAO, court of common pleas or DRS makes a determination on the claim. If the CAO, court of common pleas or DRS determines that good cause exists, the cooperation requirements are waived until the good cause waiver expires.

(e) *Assignment of support rights.* Acceptance of cash assistance shall operate as an assignment to the Department, by operation of law, of the assistance recipient's rights to receive support, on the recipient's own behalf and on behalf of any family member with respect to whom the recipient is receiving cash assistance. The assignment shall only be effective up to the amount of assistance received. The assignment shall take effect at the time that the recipient is determined to be eligible for assistance. Upon termination of assistance payments, the assignment of support rights shall termi-

nate, provided that any amount of unpaid support obligations shall continue as an obligation to and collectible by the Department to the extent of any unreimbursed assistance consistent with Federal law.

§ 187.24. [Procedures] (Reserved).

[(a) *General.* For GA cases, the findings of the Department on the ability of the spouse to support will be exclusively for the purpose of determining need for assistance. When, under the standards of the Department, the spouse appears able to support, the result is termed an expected contribution. However, the court alone will have the authority to order an LRR to support his dependents and it will always be the right of the client to ask the court to decide how much support the spouse must give.

(b) *AFDC referral to Domestic Relations Section.* For AFDC applicants, when the eligibility of a child is based on continued absence of a parent from the home, referral to the DRS will be made in accordance with the following:

(1) *General.* General procedures for referral to DRS will be as follows:

(i) Prior to the application interview, the caretaker/relative will be referred, with the Application for Support Services form, to the local County Domestic Relations Section. See § 187.23(a)(1)(ii) (relating to requirements) for exceptions to this requirement.

(ii) The CAO worker preparing the Application for Support Services form will be responsible for informing the caretaker/relative of the referral requirements prior to the application interview. The client will be informed that cooperation is a condition of eligibility and failure to comply will result in the caretaker/relative being ineligible for assistance with protective payments authorized for the child or children. The Application for Support Services form shall be completed by a DRS official and returned to the CAO as verification of DRS action taken.

(iii) At the time of the support interview, the caretaker/relative will be required to cooperate by providing all known information necessary for identification and location of the absent parent as well as by providing all known information regarding the circumstances of the absent parent, as set forth in § 187.23(a)(2)(i)(A).

(iv) If the caretaker/relative is unable to provide any part of the information requested regarding the absent parent, but does cooperate to the extent that he is able, the caretaker/relative will continue to be eligible for assistance.

(v) If the client later secures new or additional information regarding the absent parent, he will be referred to the DRS Support Official for updating or correcting the original information provided. The Support Liaison Agent will be responsible for updating the information contained in the Claim Settlement Central Registry files as set forth in § 153.44(b)(2)(ii) (relating to procedures).

(2) *Application for Support Services form.* The Application for Support Services form will be in accordance with the following:

(i) The Application for Support Services form will be used to perform the following:

(A) Notify the Bureau of Claim Settlement Child Support Unit of the furnishing of AFDC in all cases where the eligibility of a child is based on continued absence of a parent from the home. The Application for Support Services form will be forwarded to the Claim Settlement Support Liaison Agent assigned to the CAO for processing within 2 working days of authorization or at the time such absence occurs while the child is receiving AFDC, as set forth in § 153.44(a)(1).

(B) Refer the caretaker/relative to the County DRS prior to the application interview.

(C) Notify the court of all eligible AFDC/GA cases authorized on the basis of continued absence of a parent or spouse to effect automatic assignment of support payments to the Department.

(D) Provide DRS validation of specific support action initiated by the applicant parent/caretaker for CAO eligibility determination purposes.

(ii) The Application for Support Services form will be prepared in quadruplicate by the CAO worker prior to the application interview and will be processed as provided by instructions noted on the form.

(A) The CAO worker will explain to the applicant the procedure used by the local DRS and the CAO in completing the form.

(B) (Reserved).

(C) (Reserved).

(D) (Reserved).

(iii) In cases where the caretaker/relative initiates a claim for good cause under § 141.21(d)(2)(i) (relating to policy) and a determination is pending, a referral will not be made to the DRS. Following the application interview, the form will be processed as applicable to the case situation.

(c) *Referral of nonassistance persons.* Under provisions of the Child Support Program, support collection and paternity determination services will also be made available to nonassistance persons upon request. Since the Domestic Relations Office in each County has been designated as the Child Support Unit Intake Office to process requests for support services, all nonapplicant persons requesting such services through the CAO will be referred directly to the local Domestic Relations Office.

(d) *Spouse or former spouse under a court-ordered support.* Court-ordered support, as used in this section, will include alimony payments. For GA cases, a spouse or former spouse under a court order shall comply with the following:

(1) *Automatic assignment and effect of court orders on the grant.* Automatic assignment and effect of court orders on the grant will be in accordance with the following:

(i) Upon acceptance of assistance, the client's rights to spousal support on his behalf are assigned to the Department by operation of law. Therefore, when the client is determined eligible for assistance and is receiving or expects to receive court-ordered support from a spouse or former spouse, he is entitled to the full assistance allowance.

(ii) (Reserved).

(iii) (Reserved).

(iv) The Bureau of Claims Settlement will have the responsibility for enforcement of court orders when the Department is the payee.

(2) *Payment of an existing court order to the Department.* The payment of an existing court order to the Department will be in accordance with the following:

(i) In case situations where there is an existing court order payable to the Department under the automatic assignment provision, the client must agree to pay to the Claim Settlement Support Agency any support or alimony payments received from the absent spouse or former spouse after an assignment has been made to the Department and the client is receiving a full allowance. Payments will be turned over to the Support Collection Agency only because the client will be receiving a full assistance check.

(ii) The Application for Support Services form will be used to effect payment or support under an existing court order to the Department. Upon authorization of assistance, the completed form will be forwarded to the Support Liaison Agent assigned to the CAO for transmittal to the DRS.

(3) (Reserved).

(e) *Spouse not under a court order.* In GA cases, for the spouse not under a court order, the following method will be used to determine financial ability to support:

(1) The contribution expected from a spouse not excluded by § 187.23(b) will be determined as follows:

(i) The dependents living with the spouse will be determined. Minor children under 18 years of age will always be included. Other persons will be included if:

(A) They are without income of their own.

(B) The spouse requests their income be added to his income.

(ii) Total net income of the spouse including that of his dependents whose income, by his request, must be taken into account, will be determined. Net income from self-employment or business is profit before tax deductions. Net income from other employment is gross less \$20 per month for work expenses, as determined by subsection (e) and § 183.22 (relating to profit from self-employment).

(iii) The amount the spouse is paying for the support of his minor child or children outside his home will be deducted from the total arrived at in subparagraph (ii).

(iv) The appropriate figure from the following income scale will be selected and subtracted from the total net income:

No. of Persons Depen- dent Upon LRR's Income	1	2	3	4	5	6	Each Addi- tional Person
	Net Monthly Income	\$173	\$260	\$317	\$373	\$423	

(v) 1/2 will be applied to the remainder.

(vi) The expected contribution will be the resulting figure or the total allowance for the client, whichever is the lesser.

(2) The total allowance for the client will be the difference between the family size allowance with the client in the assistance unit, excluding special needs allowances, and what the allowance would be if the client were not included in the assistance unit.

(f) *Waiver of an expected contribution.* An expected contribution will be waived as follows:

(1) When a spouse has been determined able to contribute according to subsection (e)(1), the expected contribution may be waived by the Executive Director or his delegate when it appears unsound, unreasonable, or impracticable to expect the spouse to make the determined contribution.

(2) In evaluating whether it is unsound, unreasonable or impracticable to expect the spouse to make the determined contribution, the Executive Director or his delegate will take into consideration circumstances such as but not limited to the following:

(i) The spouse has a medically diagnosed physical or psychological condition that warrants waiver.

(ii) The spouse is already providing support by order of the court to another person that is in an amount as to cause hardship for the spouse if also required to support the client.

(iii) The spouse has legitimate financial obligations, such as high medical bills or heavy loss because of major disaster, that would prohibit him from meeting the expected contribution.

(iv) The spouse is mentally or emotionally unstable to such a degree that further efforts to secure the expected contribution would expose the client to danger or injury.

(3) A waiver will be made for a special period related to the circumstances of the spouse. The period will usually be no longer than 6 months and never more than 1 year without reconsideration.

(g) *GA Spouse or GA Parent Found able to contribute under § 183.91 and 183.92.* The following apply:

(1) When it has been determined under subsections (e) and (f) that a spouse or parent is financially able to provide support, the client is expected to either contact the spouse or parent directly to arrange for the amount of the expected contribution or to give consent for the CAO to contact the spouse or parent. If the expected contribution from the spouse or parent is secured, it shall become

available to the client. Court action is required in accordance with the procedures in subsection (h) in the following cases:

(i) The total amount of the expected contribution is not secured.

(ii) The client is unwilling to contact the spouse or parent directly and objects to the Department contacting the spouse or parent.

(2) Assistance shall be continued until the court makes a decision. An amount that the spouse or parent is actually contributing is considered income available to the client.

(h) *Court action.* Court action procedures will conform with the following:

(1) *General.*

(i) Court action for support by either Claim Settlement or client will be required whenever one of the following circumstances exists:

(A) Information about the financial circumstances of the spouse cannot be obtained as set forth in § 187.23(b)(2).

(B) A contribution is expected from the spouse but the spouse does not provide the amount expected, as set forth in subsection (g).

(C) (Reserved).

(D) (Reserved).

(ii) The client will be expected to take court action within 30 days from the date of the decision that the spouse is expected to contribute. If at the end of the 30 days, the client has not initiated court action, the County Assistance Office will send a written notice to the client advising him that the Department will initiate the legal action to obtain support. This notice will advise the client that the legal proceedings will begin ten calendar days from the date of the notice unless the client either:

(A) Initiates the action himself within the 10-day period.

(B) Requests assistance be discontinued.

(iii) If, within the specified 10 calendar-day period, the client does not indicate he will take court action or request closure, the County Assistance Office will prepare and submit a Form PA 173-B, Referral for Support Action, according to paragraph (2).

(iv) Whenever court action for support is indicated and the spouse lives in another state, reference should be made to for support duties imposed by the laws of the other state. If the information shows that support duties are not imposed on the spouse in that state, court action will not be required.

(2) *Referral to claim settlement.* For GA spousal support cases, the Referral for Support Action will be used to initiate Departmental court action for support. The form will be prepared in duplicate. The original of the completed form will be sent to the Claim Settlement Office. The copy will be retained in the case record. The form will be submitted as soon as the information has been received and the decision made as to the need for support action. A Referral for Support Action must always be made in the following situations:

(i) Court action is required as specified in subsection (f).

(ii) A client wants an existing court order paid to the Department, as set forth in subsection (d)(2).

(iii) Assistance is discontinued for a person for whom a court order is being paid to the Department, as set forth in this subsection.

(iv) A client requests release of a court order being paid to the Department, as set forth in subsection (d)(2).

(v) Client or county has received notice of a petition by the spouse or a scheduled hearing to reduce the amount of an existing court order or to adjust or cancel arrearages due under the order.

(3) *Responsibilities of claim settlement.* The responsibilities of the Bureau of Claim Settlement regarding support will be as follows:

(i) To represent the Department in all court actions on support.

(ii) To promptly initiate the court action indicated on the referral when such action in its judgment is warranted and advisable, taking into consideration the laws which apply and the possibility of collecting support from the named spouse in an amount sufficient to justify the cost of the proceedings.

(iii) To receive and credit court-ordered support payments when the Department is the payee or assignee.

(iv) To take prompt legal steps for the enforcement of a court order in which the Department is the payee or assignee.

(v) To promptly notify the County Assistance Office of the decision of the court on each referral.

(vi) To keep the records and reports of support received as are prescribed by the Department, the Federal agencies, and the courts.

(vii) To advise the County Assistance Office on questions of law and legal procedure regarding the enforcement of support and support reimbursement.

(4) *Interchange of information.* Interchange of information between the County Assistance Office and the Claim Settlement Office will be as follows:

(i) An essential component of support action referrals is the rapid and complete interchange of information between the County Assistance Office and the Claim Settlement Office.

(ii) The Claim Settlement Office will report to the County Assistance Office by memorandum the results of the decision of a court. This will include date referred to court, date of hearing, decision, amount of order, effective date of order and reason if petition is not granted plus any other information pertinent to the action.

(iii) The County Assistance Office will send a dummy copy of the Authorization for Assistance to the Claim Settlement Office whenever a case is opened, discontinued or address changed, indicated by an entry on the face sheet.

(iv) When the Claim Settlement Office decides a court action is not warranted or advisable as set forth in paragraph (3), a memorandum giving the

reasons will be sent to the County Assistance Office with a copy to the Director, Bureau of Policy.

(i) *Redetermination of ability to support (spouse for spouse).* Redetermination of ability to support will be in accordance with the following:

(1) The financial circumstances of the spouse will be redetermined periodically, except in those situations where the following has been determined:

(i) The whereabouts of the spouse is unknown.

(ii) The earning capacity of the spouse is so limited that there is little or no likelihood of his ever having sufficient income to provide support. Work history, mental or physical handicaps, lack of skills, age related to capacity and skill, or addiction to alcohol or drugs are examples of the factors that might be taken into account in making this decision.

(iii) The spouse is a housewife without income whose homemaking responsibilities make employment unlikely.

(iv) The spouse is mentally or emotionally disturbed to the extent that his reactions would threaten or be injurious to the person for whom he is legally responsible.

(2) In the instances described in paragraph (1)(i)–(iii), further determinations of the financial ability of the spouse or further efforts to locate a missing spouse will be made only if new information about the circumstances of the spouse or whereabouts comes to the attention of the County Office.

(j) *Allotments.* Allotments will conform with the following:

(1) *Service Departments administering allotments.*

Army:	Finance Center United States Army Indianapolis, Indiana 46429
Air Force:	Air Force Accounting and Finance Center 3800 York Street Denver, Colorado 80295
Coast Guard:	Commandant United States Coast Guard Headquarters Attn: Dependents Allowance Section Washington, D.C. 20226
Navy:	Navy Family Allowance Activity New Federal Office Building Cleveland, Ohio 44199
Marine Corps:	Marine Corps Finance Center Allotment Division Kansas City, Missouri 64197

(2) *E and D allotments.* Enlisted personnel in pay grades E-4 with more than 4 years service and higher, Warrant Officers and Officers, may provide for their dependents either by direct contribution, or by an allotment from their pay. In the case of Army or Air Force personnel, this will be an E Allotment and in the Navy or Marine Corps it will be a D Allotment. These allotments will be optional with the service person and may be discontinued whenever he wishes. The amounts will depend on the arrangements made by the service person.

(3) *Information on allowances and allotments other than Class Q.* If a client has been unable to

obtain satisfactory adjustment of a problem through correspondence with the proper service department, the home service worker in the local Red Cross chapter may be able to assist the client by getting in touch, through proper channels, with the Red Cross Field Director at the duty station of the serviceman. American Red Cross Field Directors will be located in most military installations. Requests of this nature should be made by the client, not by the County Office.]

§ 187.25. Notification to the applicant or recipient.

(a) *Cash assistance sought or received for an unemancipated minor child.* Before requiring cooperation under § 187.23(b) (relating to requirements), the CAO will provide oral and written notice of the cooperation requirements to the applicant or recipient. The written notice shall advise the applicant or recipient of the following:

(1) The potential benefits that the unemancipated minor child may derive from the cooperation of the applicant or recipient in establishing paternity and obtaining support.

(2) Cooperation is a condition of eligibility.

(3) Failure to cooperate without good cause will result in the reduction of the cash assistance allowance by 25%.

(4) The right to claim good cause, good cause circumstances, proving the good cause claim, and the good cause determination under § 187.27 (relating to waiver of cooperation for good cause).

(5) The CAO will waive the cooperation requirements when the CAO, the court of common pleas or the DRS determine that good cause exists.

(6) A finding of noncooperation of an applicant or recipient does not affect the LRR's duty to pay support.

(b) *Cash assistance sought or received for a spouse.* Before requiring cooperation under § 187.23(c), the CAO will provide oral and written notice to the applicant/recipient of the cooperation requirements and the right to claim good cause. The written notice shall advise the applicant/recipient of all the information set forth under subsection (a).

§ 187.26. Noncooperation.

(a) *Determination of noncooperation by the CAO, court of common pleas or DRS.* The CAO, court or DRS may make the determination of whether an applicant/recipient refused to cooperate without good cause. The court of common pleas of each county shall have the option of hearing appeals from any determination of its DRS that an applicant/recipient has not cooperated in accordance with § 187.23 (relating to requirements). If the court declines to exercise the option to hold hearings on the appeals, the procedures in subsection (b) apply. If the CAO determines noncooperation without good cause, the procedures in subsection (c) apply. Subsection (c)(1) applies to applicants. Subsection (c)(2) applies to recipients. The procedures in subsection (c)(1) or (2) also apply when the court declines to hold the noncooperation hearing. If the court, after notice and an opportunity to be heard, determines that the applicant/recipient re-

fused to cooperate without good cause, the Department will implement the court's order as set forth in subsection (d).

(b) If the court or the DRS determines that the applicant/recipient has failed to cooperate without good cause with § 187.23, the court or the DRS will provide notice of any noncooperation determination to the CAO along with notice of its decision to opt not to hold a hearing on noncooperation. Appropriate court personnel shall be made available to provide testimonial evidence by telephone testimony at the time and location set by the Department for the Departmental appeal hearing. Upon receipt of the notice from the court or the DRS, the CAO shall proceed in accordance with subsection (c)(1) or (2) depending upon whether the individual is an applicant for or recipient of assistance.

(c) If the CAO determines that the applicant/recipient has failed to cooperate, without good cause, with § 187.23, or upon receipt of a notice of a noncooperation determination by the court or DRS under subsection (b), the CAO will:

(1) In the case of an applicant:

(i) Provide notice to the applicant of the noncooperation determination, the basis for the noncooperation determination and the reduction of the cash assistance allowance by 25% effective upon authorization of assistance.

(ii) Provide notice to the applicant of the right to appeal to the Department's office of hearings and appeals under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(iii) Authorize the cash assistance allowance reduced by 25% effective upon authorization of assistance.

(iv) Authorize the full cash assistance allowance if so ordered as a result of a decision rendered by the Bureau of Hearings and Appeals, as a result of a good cause claim initiated by the applicant, or as a result of the applicant cooperating with the support requirements.

(2) In the case of a recipient:

(i) Provide notice to the recipient of the noncooperation determination, the basis for the noncooperation determination, and the reduction of the cash assistance allowance by 25% 10 days after the date of the notice.

(ii) Provide notice to the applicant of the right to appeal to the Department's Bureau of Hearings and Appeals under Chapter 275.

(iii) Authorize the reduction of the cash assistance allowance by 25% effective 10 days after the date of the notice, unless the recipient has invoked his right to a hearing and has filed an appeal within the 10-day period. If the recipient has invoked his right to a fair hearing, cash assistance will not be reduced pending a decision in the hearing.

(iv) Initiate recovery of the assistance granted pending the fair hearing if the Department action is sustained.

(d) *Determination of noncooperation by the court.* A hearing or appeal with respect to the recommendation order of noncooperation directed by the

court or DRS will be conducted by the court in accordance with the Pennsylvania Rules of Civil Procedure.

(1) Upon receipt of a court order issued by a court of common pleas, the CAO will implement the order within 10 days of receipt. The CAO will:

(i) Provide notice to the applicant or recipient of the court order and the cash assistance allowance reduction by 25%.

(ii) Provide notice to the applicant or recipient of the right to appeal to the Department's Bureau of Hearings and Appeals under Chapter 275 and that the right of appeal to the Department's Bureau of Hearings and Appeals does not include appeal of a court order in which noncooperation has been determined by the court. The right to appeal in this instance to the Department's Bureau of Hearings and Appeals under Chapter 275 is restricted to the calculation of the assistance allowance.

(iii) For an applicant, authorize the cash assistance allowance reduced by 25% effective upon authorization of assistance. For a recipient, the CAO will reduce the cash assistance allowance by 25% effective 10 days after the date of the notice, unless the recipient has invoked his right to a hearing and has filed an appeal within the 10-day period. If the recipient has invoked his right to a fair hearing, the cash assistance allowance will not be reduced pending a decision in the hearing.

(2) If the court order directs the Department to rescind the sanction for noncooperation, the Department will implement the order immediately upon receipt.

§ 187.27. Waiver of cooperation for good cause.

(a) *Good cause circumstances.* Cooperation requirements may be waived for good cause. Good cause circumstances include the following:

(1) The child was conceived as a result of incest or rape.

(2) Legal proceedings for the adoption of the child are pending before a court.

(3) The applicant or recipient of cash assistance is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption and the discussions have not progressed for more than 3 months.

(4) Action to establish paternity or obtain child or spousal support would make it more difficult for the individual or family member to escape domestic violence, or unfairly penalize the individual who has been victimized by the violence, or who is at risk of further violence. Domestic violence is defined as one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker/relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(b) *Proving the good cause claim.* The applicant or recipient of cash assistance shall provide relevant corroborative evidence.

(1) A good cause claim may be corroborated with the following types of evidence:

(i) A birth certificate or medical or law enforcement records which indicate that the child was conceived as the result of incest or rape.

(ii) Court documents or other records which indicate that legal proceedings for adoption are pending.

(iii) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to relinquish the child for adoption.

(iv) Medical records which indicate emotional health history and present emotional health status of the applicant or recipient or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the applicant or recipient or the child for whom support would be sought. Supportive evidence submitted from a mental health professional will be defined as statements written by persons who have obtained licensure or certification, if applicable, or have received a degree in defined areas of mental health including psychiatry, social work, psychology, nursing, occupational therapy or recreational therapy.

(v) Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the putative father, noncustodial parent or absent spouse might inflict harm on the individual or family member as specified under subsection (a)(4).

(vi) Statements from individuals other than the applicant or recipient with knowledge of the good cause circumstances, including a domestic violence service provider, a medical, psychological or social service provider, a law enforcement professional, a legal representative, an acquaintance, friend, relative or neighbor of the claimant or other person. The CAO may not contact the putative father or noncustodial parent to verify good cause in a domestic violence situation.

(vii) *“Verification of Good Cause Based on Domestic Violence.”* The person with domestic violence training and applicant or recipient will complete this form for all good cause claims based on domestic violence in accordance with one of the following circumstances:

(A) To accompany acceptable verification as specified in subparagraph (iv), (v) or (vi) that an applicant or recipient has provided.

(B) To authorize by written consent of the applicant or recipient that a third party may provide verification/corroboration of the good cause claim.

(C) To grant good cause for up to 6 months when an applicant or recipient affirms he is unable to

safely obtain evidence to verify the claim of domestic violence within the established time frames for providing verification.

(2) When the applicant or recipient of cash assistance initiates a claim of good cause, the CAO, court or the DRS may provide assistance with obtaining corroborative evidence. 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.

(3) An applicant or recipient shall provide verification of the good cause claim within 30 days from the date the claim is made except when the applicant or recipient cannot otherwise provide verification of the good cause claim as specified in paragraph (1)(vii)(C).

(i) In the case of an applicant, assistance will be authorized no later than 30 days following application when the applicant is claiming good cause and verification is not readily available or pending from a third party.

(ii) In the case of a recipient, the CAO will continue assistance if verification is not provided within 30 days and the delay is due to a third party.

(c) *Good cause determination.* The CAO, court or the DRS will make a determination within 45 days from the day the claim was initiated by the applicant or recipient of cash assistance. The CAO, court, or the DRS may approve additional days for the determination to be completed.

(1) If the CAO makes a determination on a good cause claim, the CAO will notify the applicant or recipient of cash assistance in writing of the final determination regarding the claim of good cause and the basis therefor and of the right to appeal under Chapter 275. If the good cause claim is denied, neither the Department nor the Bureau of Child Support Enforcement will attempt to establish paternity or obtain support for at least 30 days after the client has been informed orally and in writing of the denial of the good cause claim.

(2) If the court of common pleas or DRS makes a determination on a good cause claim, the DRS will notify the applicant or recipient of cash assistance and the CAO of the final determination and the basis therefor and of the right to appeal under Chapter 275.

(3) When the CAO, court of common pleas or the DRS approve a waiver of the cooperation requirement based on a claim of good cause, the CAO, court of common pleas or the DRS will establish the expiration of the waiver and the DRS will not attempt to establish paternity or obtain support.

(4) When good cause is determined to exist, the CAO will review the circumstances upon which the good cause determination is based, at least every 6 months. The review may be earlier if the circumstances warranting the good cause waiver change or the waiver was granted for a lesser period.

(i) If the good cause claim was granted based on corroborative evidence, no additional corroborative evidence is required if circumstances have not changed since approval of the initial waiver. The

recipient shall establish that continuation of the good cause waiver is necessary by providing a verification of good cause based on domestic violence form completed by a person with domestic violence training.

(ii) If the good cause claim was granted based on the recipient's affirmation, and she is unable to provide verification as specified in subsection (b)(1)(iv)—(vi), the CAO will make a determination of good cause based on a current assessment of the recipient's circumstances. This assessment will be completed by a person with domestic violence training and substantiated by completion of the verification of good cause based on the domestic violence form under subsection (b)(1)(vii).

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