

**CHAPTER 108. FAMILY VIOLENCE AND TANF AND GA
GENERAL PROVISIONS**

Sec.	
108.1.	Purpose.
108.2.	Definitions.
108.3.	Universal notification.
108.4.	Written notification.
108.5.	Individual notification.
108.6.	Policy for applicants or recipients in immediate danger.
108.7.	Requirements subject to waiver.
108.8.	Claiming good cause based on domestic violence.
108.9.	Time limits.
108.10.	Verification.
108.11.	Time frames for good cause waiver determinations based on domestic violence.
108.12.	Notice of good cause waiver determinations based on domestic violence.
108.13.	Review of waivers.
108.14.	Safeguarding information.
108.15.	Alternate address.
108.16.	DRS responsibility for the FVI.
108.17.	Agreement of Mutual Responsibility (AMR).
108.18.	Referral for services.

Authority

The provisions of this Chapter 108 issued under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

Source

The provisions of this Chapter 108 adopted May 28, 2010, effective May 29, 2010, 40 Pa.B. 2762.

§ 108.1. Purpose.

This chapter establishes rules and policies that apply to victims of domestic violence who are applicants for or recipients of TANF or GA cash assistance. These policies reflect the Department's commitment to address domestic violence among welfare recipients and are based on the Department's election of the FVO, authorized under Federal law.

§ 108.2. Definitions.

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

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

Domestic violence—One or more of the following:

- (i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.
- (ii) Sexual abuse.
- (iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats or attempts of physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

FVI—Family violence indicator—A marker placed on Department and DRS records to indicate one or more individuals in the file are victims of domestic violence.

FVO—Family violence option—An optional provision in section 402(a)(7) of the Social Security Act (42 U.S.C.A. § 602(a)(7)), regarding eligible states; State plan, under which a state may elect to identify individuals with a history of domestic violence, refer them for counseling and supportive services and, upon a showing of good cause, waive one or more program requirements for these individuals.

Federal parent locator database—A National computer location system operated by the Federal Office of Child Support Enforcement, to assist states in locating noncustodial parents, putative fathers and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody and visitation.

PACSES—Pennsylvania Automated Child Support Enforcement System—Pennsylvania's single Statewide automated data processing and information retrieval system for child support enforcement under Title IV-D of the Social Security Act (42 U.S.C.A. §§ 651—669b).

Work and work-related activities—Activities set forth in Chapter 165 (relating to Road to Economic Self-Sufficiency through Employment and Training (RESET) Program).

Work and work-related activity requirements—Requirements set forth in Chapter 165.

Cross References

This section cited in 55 Pa. Code § 108.3 (relating to universal notification); 55 Pa. Code § 108.5 (relating to individual notification); 55 Pa. Code § 108.8 (relating to claiming good cause based on domestic violence); 55 Pa. Code § 108.14 (relating to safeguarding information); 55 Pa. Code § 108.16 (relating to DRS responsibility for the FVI) ; and 55 Pa. Code § 187.27 (relating to waiver of cooperation for good cause).

§ 108.3. Universal notification.

The Department will provide applicants and recipients with information about:

- (1) Policies and procedures relating to domestic violence.
- (2) Referrals to domestic violence services.
- (3) Good cause waivers of certain TANF and GA program requirements.
- (4) Specific information about program requirements if a waiver is not requested.

(5) Safeguards that may help the individual safely comply with program requirements, including placement of an FVI as defined in § 108.2 (relating to definitions) on Department and DRS files and other confidentiality protections.

(6) Opportunities to participate as a volunteer in work or work-related activities, including education and training, and to receive supportive services, under §§ 165.31 and 165.41 (relating to RESET participation requirements; and eligibility for special allowances for supportive services) if the individual receives a good cause waiver.

Cross References

This section cited in 55 Pa. Code § 108.4 (relating to written notification).

§ 108.4. Written notification.

The Department will provide applicants and recipients with written notification of the information described in § 108.3 (relating to universal notification).

§ 108.5. Individual notification.

(a) The Department will provide applicants with written notification of the right to claim good cause based on domestic violence.

(b) The Department will provide recipients who have not previously disclosed domestic violence with written notification of the right to claim good cause based on domestic violence as follows:

(1) Prior to referral to the DRS.

(2) When the Department has reason to believe a family or household member has been subjected to or is at risk of further domestic violence.

(3) Prior to imposing a sanction for noncooperation with child support requirements according to § 187.26 (relating to noncooperation).

(4) When compliance with work requirements as defined in § 108.2 (relating to definitions) is discussed according to § 165.51 (relating to compliance review) and prior to imposing a sanction for noncooperation with work requirements according to § 165.61 (relating to sanctions).

(5) Prior to denying, terminating, reducing or suspending benefits due to failure to comply with a TANF or GA program requirement.

(c) The Department will provide a recipient who has previously disclosed domestic violence with written notification of the right to claim good cause based on domestic violence according to subsection (b)(1)—(5), unless the recipient notifies the Department in writing that written notification of this right would place the recipient at risk of further domestic violence.

(d) Written notification must include an explanation of:

(1) The availability of referrals for assistance for victims of domestic violence.

(2) The availability of and procedures for requesting a good cause waiver of certain TANF or GA program requirements based on domestic violence.

- (3) The confidentiality protections.
- (e) The Department will provide oral notification to applicants and recipients of the right to claim good cause based on domestic violence as follows:
 - (1) At the application and renewal interviews.
 - (2) Prior to a referral to the DRS.
 - (3) When the Department has reason to believe a family or household member has been subjected to or is at risk of further domestic violence.
 - (4) At a compliance review under § 165.51 in which the recipient participates.

§ 108.6. Policy for applicants or recipients in immediate danger.

If an applicant or recipient is in immediate danger, the Department will:

- (1) Provide a private space to allow the applicant or recipient to call a domestic violence hotline, if requested.
- (2) Offer the applicant or recipient help in making arrangements for emergency shelter, medical care, transportation, child care and work.

§ 108.7. Requirements subject to waiver.

- (a) The policies set forth in §§ 108.8—108.13 apply to good cause waivers of requirements for support cooperation, work, time limits, teen parents, verification and other TANF and GA program requirements, based on domestic violence.
- (b) The Department may not waive the following TANF or GA program requirements except as provided in subsection (c):
 - (1) Minor child under § 145.41 (relating to policy).
 - (2) Specified relative under § 151.41 (relating to policy).
 - (3) Income under § 183.5 (relating to income verification).
 - (4) Resources under § 177.1 (relating to general requirements).
 - (5) Citizenship under § 149.23 (relating to requirements).
 - (6) Deprivation under § 153.41 (relating to policy).
 - (7) Enumeration under § 155.2 (relating to general).
 - (8) Identity under § 125.1 (relating to policy).
 - (9) Criminal status under sections 432(9) and 481.1 of the Public Welfare Code (62 P. S. §§ 432(9) and 481.1) regarding eligibility; false statements; investigations; and penalty.
 - (10) Residency under § 147.23 (relating to requirements).
 - (11) GA categorical eligibility requirement under § 141.61 (relating to policy).
 - (12) Signature on required forms, such as the application for benefits and authorization for release of information form under § 125.1.
 - (13) Permanent sanction under § 165.61 (relating to sanctions).

(14) Application for and cooperation in establishing eligibility for potential income under section 432.21(a) of the Public Welfare Code (62 P. S. § 432.21(a)) regarding requirement that certain Federal benefits be the primary source of assistance.

(c) The Department will determine whether to approve a request to waive one or more requirements in subsection (b)(3)—(14) on a case-by-case basis.

Cross References

This section cited in 55 Pa. Code § 187.27 (relating to waiver of cooperation for good cause).

§ 108.8. Claiming good cause based on domestic violence.

(a) An individual may request a good cause waiver of a TANF or GA program requirement based on past, present or risk of further domestic violence, as defined in § 108.2 (relating to definitions).

(b) The Department will grant a good cause waiver of a TANF or GA program requirement if compliance with the program requirement would result in one of the following:

(1) Making it more difficult for the individual or family member to escape domestic violence.

(2) Placing the individual or family member at risk of further domestic violence.

(3) Unfairly penalizing the individual or family member because of domestic violence.

(c) The Department may grant a good cause waiver regardless of whether the alleged abuser is in the household.

Cross References

This section cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver); and 55 Pa. Code § 187.27 (relating to waiver of cooperation for good cause).

§ 108.9. Time limits.

(a) An applicant or recipient may receive up to 12 months of TANF cash assistance that do not count towards the 60-month TANF time limit according to § 141.41(d) (relating to policy) based on past, present or risk of further domestic violence to the individual or family member. The months need not be sequential.

(b) Individuals may receive Extended TANF, as defined in § 141.52 (relating to definitions), if the individual or family member is or has been a victim of domestic violence or is at risk of further domestic violence according to § 141.53 (relating to eligibility based on domestic violence).

(c) Individuals may be eligible for cash assistance under this section regardless of whether the alleged abuser is in the household.

Cross References

This section cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver).

§ 108.10. Verification.

(a) An individual who requests a good cause waiver of a TANF or GA program requirement based on domestic violence shall complete the verification form provided by the Department.

(b) The Department will provide the verification form, in person or by mail, to an individual who requests the form and will instruct the individual to provide verification that may include one of the following:

- (1) Law enforcement records.
- (2) Court records.
- (3) Medical or treatment records, or both.
- (4) Social services records.
- (5) Child protective services records.
- (6) Third party verification from a public or private organization or an individual with knowledge of the circumstances including:
 - (i) A domestic violence service provider.
 - (ii) A medical, psychological or social services provider.
 - (iii) A law enforcement professional.
 - (iv) A legal representative.
 - (v) An acquaintance, friend, relative, or neighbor of the claimant, or other individual.

(c) If the individual cannot safely obtain verification described in subsection (b), the individual may affirm on the verification form provided by the Department that the individual cannot safely comply with a TANF or GA program requirement due to domestic violence.

(d) When an individual claims good cause based on domestic violence, the Department may not:

- (1) Contact the alleged abuser.
- (2) Require the individual to obtain a Protection from Abuse Order.

Cross References

This section cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver); and 55 Pa. Code § 108.13 (relating to review of waivers).

§ 108.11. Time frames for good cause waiver determinations based on domestic violence.

The Department will make a good cause waiver determination within 15 calendar days from the date the claim was initiated by the applicant or recipient.

Cross References

This section cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver).

§ 108.12. Notice of good cause waiver determinations based on domestic violence.

- (a) The Department will provide written notice to the individual of its determination regarding the good cause waiver request.
- (b) If the Department grants the waiver request, the notice will:
 - (1) State the program requirement being waived.
 - (2) Explain the duration of the waiver. If the Department is uncertain of the duration of the need for the waiver, the notice will explain that the waiver will remain in effect as long as necessary, subject to review every 6 months.
- (c) If the Department denies the waiver request, the notice will:
 - (1) State which program requirements are not waived and the basis for the determination.
 - (2) State the legal authority for the denial.
 - (3) Explain the right to appeal.
 - (4) State what additional verification or information is needed to substantiate good cause and the time frame in which the information shall be provided.
 - (5) Explain that the individual shall comply with the program requirement for which the waiver was requested.
- (d) The Department will follow the notice requirements in §§ 125.1 and 133.4 (relating to policy; and procedures).

Cross References

This section cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver).

§ 108.13. Review of waivers.

When the Department determines that a waiver of a TANF or GA program requirement based on domestic violence is appropriate, it will grant the waiver for as long as necessary, subject to review every 6 months as follows:

- (1) An individual who verified domestic violence under § 108.10(b) (relating to verification) need not provide new or additional verification at the 6-month review if circumstances have not changed since the waiver was initially granted or since the last 6-month review.
- (2) An individual who affirmed domestic violence under § 108.10(c) may provide verification under § 108.10(b) for the waiver to continue.
- (3) An individual who affirmed domestic violence but remains unable to provide verification under § 108.10(b) may again affirm domestic violence on the verification form provided by the Department under § 108.10(c). The individual may receive a waiver for an additional 6 months.
- (4) An individual who remains unable to provide verification under § 108.10(b) after 12 months may have the waiver continue by affirming domestic violence under § 108.10(c), subject to approval by the Department on a case-by-case basis. The individual's waiver and benefits will continue pend-

ing the Department's decision. If the waiver is approved, the individual may, if necessary, continue to affirm at each subsequent 6-month redetermination.

Cross References

This section cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver).

§ 108.14. Safeguarding information.

(a) Unless required by law or pursuant to the individual's written authorization, the Department may not disclose or release the following information about an applicant, recipient or family member who has disclosed domestic violence, has a Protection from Abuse Order or is at risk of further domestic violence by the disclosure of information:

(1) The residential address, the name and address of the individual's employer, education, training, or work program or other work activity, the name and address of the children's school and the identity and location of child care or medical providers.

(2) Whether the individual or family member is living in a domestic violence shelter and location of the shelter.

(3) The amount of benefits received by the individual or family member.

(b) The individual's written authorization must be provided on a form approved by the Department. The form may be provided to the individual in person or by mail. The form must include the name of the requestor, the information requested and the purpose of the request.

(c) The Department will place an FVI, as defined in § 108.2 (relating to definitions), on the electronic and paper files of an individual or family member who has disclosed domestic violence, has a Protection from Abuse Order or is at risk of further physical or emotional harm by the disclosure of confidential information.

Cross References

This section cited in 55 Pa. Code § 108.16 (relating to DRS responsibility for the FVI).

§ 108.15. Alternate address.

(a) A victim of domestic violence may use an alternate mailing address if one of the following applies:

(1) The individual has applied for or received a good cause waiver based on domestic violence.

(2) The individual is at risk of further domestic violence.

(3) The individual is a participant in the Address Confidentiality Program administered by the Pennsylvania Office of Victim Advocate, under 37 Pa. Code Chapter 802 (relating to The Domestic and Sexual Violence Address Confidentiality Program).

(b) The Department will ask an individual who discloses domestic violence, has applied for or received a good cause waiver or is at risk of domestic violence, whether it is safe to send mail to the home address or whether it would be safer to send mail to an alternate address.

§ 108.16. DRS responsibility for the FVI.

(a) The Department will instruct the DRS to place an FVI in PACSES, as defined in § 108.2 (relating to definitions), for an individual who receives cash assistance and discloses domestic violence.

(1) For individuals who make a personal appearance at the DRS and request an FVI be placed in their files, the DRS shall place the FVI in PACSES.

(2) For individuals in counties in which a personal appearance at the DRS is waived, the Department will electronically inform the DRS that a FVI was placed on the automated client information system and directs DRS to place the FVI on PACSES.

(b) If the FVI is placed on the file:

(1) The DRS will not disclose information according to § 108.14 (relating to safeguarding information).

(2) The DRS and other Department staff will not access a DRS file unless access to the file is needed in the performance of their duties.

(3) The DRS will transmit the FVI to the Federal parent locator database as defined in § 108.2.

§ 108.17. Agreement of Mutual Responsibility (AMR).

(a) To ensure confidentiality, the Department will not record information about domestic violence on the AMR, as defined in § 123.22 (relating to definitions).

(b) If the Department has waived a TANF or GA program requirement based on domestic violence, the Department will identify the specific requirement that is being waived on the AMR. The AMR will not include the basis for the waiver.

(c) The AMR serves as the domestic violence service plan in accordance with 45 CFR 260.55 (relating to what are the additional requirements for Federal recognition of good cause domestic violence waivers).

§ 108.18. Referral for services.

When an applicant or recipient discloses domestic violence or requests a referral to domestic violence services, the Department will provide the individual with names, phone numbers and information about the services of local domestic violence agencies, which may include shelter, safety planning and counseling.

[Next page is 109-1.]

108-10

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