

**CHAPTER 141. GENERAL ELIGIBILITY PROVISIONS**

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**Authority**

The provisions of this Chapter 141 issued under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)), unless otherwise noted.

**Cross References**

This chapter cited in 55 Pa. Code § 123.22 (relating to definitions); 55 Pa. Code § 145.61 (relating to policy); 55 Pa. Code § 145.63 (relating to requirements); 55 Pa. Code § 171.21 (relating to policy); and 55 Pa. Code § 281.1 (relating to policy).

**GENERAL PROVISIONS****§ 141.1. Policy.**

(a) *Types of assistance available.* A person in this Commonwealth who is in need may be eligible for one of the following kinds of cash assistance. However, a person may not receive concurrently more than one of the four following categories of cash assistance:

- (1) TANF in one of its several forms.
- (2) GA.
- (3) SBP.
- (4) SSI.

(b) *Type of assistance provided.* An individual may also be eligible for MA to cover health care costs. An individual may be eligible for MA in addition to one of the cash assistance programs in subsection (a), or an individual may be ineligible for cash assistance but eligible for MA. This subpart contains the eligibility requirements and procedures for TANF and GA 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). An individual who meets the eligibility requirements of a particular type of assistance receives that type of assistance, except in the following circumstances:

- (1) If the person meets the eligibility requirements for GA, but is included in a TANF grant group as set forth in § 171.21(b) (relating to policy).
- (2) If the person is a blind person as defined in Chapter 451 but chooses to apply for a type of assistance other than SBP.
- (3) If a person meets the eligibility requirements of SBP as well as any other type of assistance, the person receives SBP, if he chooses to apply for SBP.
- (4) If a person qualifies as a specified relative as defined in § 151.42 (relating to definitions) of a child who would be eligible for TANF but who is receiving SSI, the person cannot receive GA. The person must receive TANF or SBP.

**Authority**

The provisions of this § 141.1 amended under sections 201(2), 403(b), 432 and 432.21(a) of the Public Welfare Code (62 P. S. §§ 201(2), 403(b), 432 and 432.21(a)); the Support Law (62 P. S. §§ 1971—1977); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; and the Federal TANF regulations in 45 CFR 260.10—265.10.

**Source**

The provisions of this § 141.1 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; amended July 28, 1978, effective August 28, 1978, 8 Pa.B. 2104; corrected August 4, 1978, effective August 28, 1978, 8 Pa.B. 2185; amended October 2, 1992, effective upon publication and apply retroactively to October 1, 1989, 22 Pa.B. 4875; amended September 13, 2002, effective retroactively to March 3, 1997, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (268268) to (268269).

**Cross References**

This section cited in 55 Pa. Code § 299.36 (relating to eligibility requirements for SSP-only).

**ELIGIBILITY PROVISIONS FOR TANF/GA****§ 141.21. Policy.**

(a) In addition to the specific requirements referred to in §§ 141.41 and 141.61 (relating to policy; and policy), certain actions will be conditions of eligibility for TANF or GA when an absent parent is involved.

(b) Generally, an assistance unit will be considered for TANF assistance if there is a missing parent which results in deprivation of parental support or care as described in Chapter 153 (relating to deprivation of support or care). However, if the applicant is an unemancipated minor as set forth in § 145.63 (relating to requirements) who is not eligible for TANF only because of not living with a specified relative, the applicant may qualify for GA. Requirements for obtaining child support will apply in either instance.

(c) As a condition of eligibility for TANF, each applicant/recipient parent, guardian or other caretaker/relative with whom the child is living shall cooperate in the referral process for securing support for children from absent parents prior to the application interview unless good cause is claimed in accordance with subsection (d). Dependent upon household situations, the individual responsible for cooperating is as follows:

(1) When an emancipated minor child, determined to be a specified relative, is living with the emancipated minor child's recipient parent and is included in the grant, the parent shall carry the responsibility for meeting child support requirements.

(2) When an unemancipated minor child, determined to be a specified relative, is the payment name and receiving assistance for herself and children, the unemancipated minor will be considered to be the caretaker/relative and shall carry responsibility for meeting child support requirements.

(3) When court ordered support in the form of alimony is received, due or accrued on behalf of the TANF applicant/recipient parent, guardian or other

caretaker or GA applicant/recipient, child support requirements will apply. Reference should be made to § 187.23 (relating to requirements).

(d) For an applicant/recipient who is a caretaker/relative, as defined in § 151.42 (relating to definitions) the following is required:

(1) Cooperation with the Department, including the keeping of scheduled appointments with applicable offices, appearing as a witness in court or at other hearings or proceedings necessary to obtain support from the absent parent, in establishing the paternity of a child born out-of-wedlock, identifying and locating the absent parent and obtaining support payments as provided under § 187.23.

(i) An exception to paragraph (1) is that if the applicant/recipient parent or other caretaker is able to establish 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, cooperation requirements will be waived as set forth in § 187.23(a)(3).

(ii) The following provisions relate to procedures to waive cooperation requirements:

(A) The applicant/recipient parent or other caretaker will be provided a written notice of the right to claim good cause as an exception to cooperation requirements, Form PA 173-WP. The notice will outline the circumstances under which good cause may be claimed and the responsibility of the applicant/recipient to provide the evidence or other information needed by the CAO to make a determination as to whether good cause exists as set forth in § 187.23(a)(3).

(B) The CAO will provide each TANF applicant/recipient parent or other caretaker the opportunity to claim good cause prior to requiring cooperation. When the applicant/recipient initiates a claim and is subsequently able to establish that good cause for refusing to cooperate does in fact exist, cooperation requirements will be waived. If the applicant/recipient is unable to meet the requirements applicable to a good cause determination, the claim will be denied and cooperation requirements as set forth in § 187.23(a)(2) will become applicable.

(2) Furnishing a Social Security Number, or proof of making application for a Social Security Number, for the family members for whom assistance is to be granted or is being received. The Social Security Number will be used for identification purposes in the administration of the child support program. If a Social Security Number is needed and no application has been made, it will be the responsibility of the CAO to fill out and submit the SSA-5. Exception: The caretaker/relative of a newborn child does not have to apply for a Social Security Number prior to authorization of benefits for the child subject to § 133.23(b)(4) (relating to requirements).

(e) Failure to cooperate in establishing paternity or obtaining support, as specified in § 187.23, without good cause, will result in the reduction of the cash assistance allowance by 25%.

(f) When a person is providing information to locate an absent parent, the necessity to provide detailed information not immediately known cannot be made a condition of eligibility. If a relative provides all available information and cooperates in establishing a reasonable plan to locate the absent parent, assistance may not be denied because the relative is unable to furnish complete information.

(g) A person denied assistance because of failure to meet the conditions of eligibility as set forth in this section has the right to appeal and a fair hearing as provided under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(h) An applicant/recipient who is a caretaker relative of a child whose eligibility for assistance is based on deprivation due to the absence of a parent from the home, who fails to cooperate with the Department in obtaining support payments for the child, unless failure was for good cause, is not eligible to receive GA for himself only. Assistance for the child will be authorized in the form of protective payments. Notice will be given in accordance with § 187.23(a)(5)(i).

(i) Under no circumstances may an TANF protective payment for the child or children be authorized concurrently with a GA payment for the caretaker/relative only.

(j) Refer to the procedures in § 153.44(a) (relating to procedures) regarding absence from the home and to the requirements in § 187.23 regarding cooperation in obtaining support.

(k) Furnish information for the completion of the Medical Resource Documentation Form as a condition of eligibility for TANF/GA. This information will be used to ensure that MA payments are not made when another person or organization is liable for medical bills of the recipient.

(l) Consent to disclosure of information from third parties relating to age, residence, citizenship, employment, applications for employment, income and resources of the applicant or recipient shall be as follows:

(1) The consent shall authorize the third party to release information requested by the CAO.

(2) The CAO shall attempt to notify the applicant/recipient prior to contacting a third party for information about the applicant/recipient, except in cases of suspected fraud.

(m) Furnish required verification as directed by the CAO of eligibility factors in accordance with Chapter 125 (relating to the application process) prior to application interview.

(1) If the applicant has cooperated and can document cooperation in the verification attempt, the initial authorization of assistance may not be delayed for more than 15 days for verification purposes following the date of application.

(2) For purposes of determining eligibility under § 141.61(d)(1)(iii), an individual will be considered as cooperating in the attempt to verify the claimed disability if the individual has done everything necessary and reasonable to secure documentation that will verify the disability.

(3) For purposes of determining eligibility under subsections (p) and (q), the minor parent shall present evidence to qualify for the exceptions. Because documentary evidence establishing an exception may not exist or may be difficult to obtain, the minor parent will be considered as cooperating in an attempt to verify the alleged exception if the minor parent can document that she made a good faith effort to obtain the necessary documentation. The CAO shall make an administrative determination based on available documentation. In the absence of evidence of fraud, verification from the minor parent, social worker or other person familiar with the allegation shall be sufficient when other documentary evidence is difficult to obtain. Action which is necessary to produce the verification shall be taken in accordance with Chapters 125 and 133 (relating to the application process; and the redetermination process).

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

(1) An applicant for TANF, Extended TANF or GA who fails, without good cause, to cooperate in establishing eligibility for Federal programs is ineligible for cash assistance as follows:

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

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

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

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

(2) A recipient of TANF, Extended TANF or GA who fails, without good cause, to cooperate in establishing eligibility for SSI, RSDI, TANF, Extended TANF or other Federal programs is ineligible for cash assistance until the recipient complies. For Extended TANF and GA, if the recipient has received 60 months of TANF, the recipient's family is also ineligible until the recipient complies.

(3) An applicant for or recipient of assistance shall repay an assistance grant received in the month for which RSDI or other Federal benefits are awarded to them. CAOs are not to deny or discontinue assistance because a client has not met an obligation to repay a public assistance grant received during a period for which RSDI or other Federal benefits were awarded.

(o) Submit a Monthly Reporting Form if it is a condition of eligibility as specified in § 142.23 (relating to requirements).

(p) As a requirement of eligibility for TANF or GA, an applicant or recipient minor parent, as defined in § 141.42 (relating to definitions), shall reside in the home of the minor parent's parent, legal guardian or other adult relative who is at least 18 years of age or in an adult-supervised supportive living arrangement unless otherwise exempt by one of the conditions of subsection (q). If the CAO determines that at least one of the conditions in subsection (q) is satisfied and no other adult-supervised supportive living arrangement is available, a minor parent may be exempt from this requirement. The following conditions may apply to the eligibility determination of a living arrangement regarding a minor parent:

(1) While a minor parent resides with a supervising adult, as specified, the supervising adult may be the payment name of the cash benefits paid on behalf of the minor parent and the minor parent's dependent child. The supervising adult shall ensure that the minor parent and dependent child receive the benefit of the payment.

(2) If the minor parent does not meet any of the exceptions listed in subsection (q) and the parent, legal guardian or other adult relative lives at another location, the minor parent and dependent child may be given a special allowance, as provided for in § 175.23(e) (relating to special allowances), to return to the home of the minor parent's parent, legal guardian or other adult relative. The Department will not authorize a special allowance payment until the minor parent verifies she has permission to return to the home of the parent, legal guardian or other adult relative.

(3) If the minor parent cannot return to the home of a parent, legal guardian or other adult relative, the CAO in consultation with a county children and youth agency will provide assistance to the minor parent to locate a second-chance home, maternity home or other appropriate adult-supervised supportive living arrangement unless the CAO determines the minor parent's current living situation to be appropriate.

(q) A minor parent who claims exception to the requirement of living with a parent, legal guardian or other adult relative shall present documentation, in accordance with subsection (m), that all other potential living arrangements have been explored, and at least one of the following conditions applies:

(1) The minor parent can document that neither a parent, legal guardian nor other adult relative is able to retain or assume parental control over the minor parent because of a physical, emotional, mental, financial or other limitation.

(2) The minor parent does not have a living parent, legal guardian or other adult relative or the whereabouts of the parent, legal guardian or other adult relative are not known.

(3) Neither a parent, legal guardian nor other adult relative of the minor parent will allow the minor parent to live in the common residence.

- (4) The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if they resided with the minor parent's parent, legal guardian or other adult relative, or, the threat to physical or emotional health or to safety comes from another individual residing in or visiting the residence. Eligibility under this paragraph shall be based on the following:
- (i) The present physical or emotional health or safety of the minor parent or dependent child obtained from sources including health records, collateral contacts or worker observation.
  - (ii) The physical or emotional health or safety history of the minor parent or dependent child obtained from sources including health facility records or collateral contacts with school counselors, health professionals, social service agency personnel, police or courts.
  - (iii) The intensity and probable duration of the physical or emotional harm previously caused to the minor parent or dependent child from residing in the home of the minor parent's parent, legal guardian or other adult relative obtained from sources including health facility records or collateral contacts with school counselors, health professionals, social service agency personnel, police or courts.
- (5) The minor parent's parent, legal guardian or other adult relative has exhibited neglect of the minor parent or minor parent's child. Eligibility shall be based on the documentation listed in subsection (q)(4).
- (6) The minor parent's child, including an unborn child, was conceived as a result of rape or incest committed by someone still residing in or visiting with other individuals residing in the residence.
- (7) The minor parent and dependent child no longer reside in the home of the parent, legal guardian or other adult relative because of physical or sexual abuse or the threat of physical or sexual abuse to the minor parent, minor parent's child or any other child in the household.
- (8) The parent, legal guardian or other adult relative lives in another area of the State, in another state or out of the country, and the minor parent has not resided with the parent, legal guardian or other adult relative for 12 months or more and the minor parent is already enrolled in a vocational school, other educational program, job training, or substance abuse treatment program, or is employed.
- (9) The parent, legal guardian or other adult relative has spent the minor parent's assistance in an improper manner.
- (10) Additional exceptions under this subsection may be granted by the Department if the Department determines that the exception is necessary to protect the health and safety of the minor parent and dependent child.
- (r) Neither the income eligibility limits nor the cash benefits for three or more GA recipients residing in the same household may exceed the limits for a TANF budget group with the same number of recipients. The term "household" is defined as a common residence and does not include single-room occupancy



residences, rooming houses, shelters for the homeless, nonprofit residential programs or personal care home facilities receiving charitable or government funds including funds from Federal, State or local units.

(s) An applicant or recipient 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 individual in securing GA, TANF, MA or Federal Food Stamps by means of a willfully false statement or misrepresentation, or by impersonation or by willfully failing to disclose a material fact regarding eligibility either before or at the time of, or subsequent to the application for assistance is ineligible for cash assistance as follows:

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

(t) An applicant or recipient is ineligible for assistance if the individual is fleeing to avoid prosecution, or custody or confinement following conviction for a felony, or as felonies are classified in the State of New Jersey, a high misdemeanor.

(u) Cash assistance payments will not be made to an individual 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 in two or more states.

#### Authority

The provisions of this § 141.21 amended under sections 201(2), 401(a), 403(b), 432, 432.21(a) and 481 of the Public Welfare Code (62 P. S. §§ 201(2), 401(a), 403(b), 432, 432.21(a) and 481); the Support Law (62 P. S. §§ 1971—1977); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; section 5543 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33) (42 U.S.C.A. § 653(p)); the Federal TANF regulations in 45 CFR 260.10—265.10; and the Domestic Relations Code, 23 Pa.C.S. §§ 4301—4381, 5103, 7101—7901 and 8101—8418; and the act of May 16, 1996 (P. L. 175, No. 35).

#### Source

The provisions of this § 141.21 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; amended February 2, 1979, effective March 5, 1979, 9 Pa.B. 395; amended June 29, 1979, effective March 5, 1979, 9 Pa.B. 2153; corrected May 6, 1979, effective March 5, 1979, 9 Pa.B. 2262; amended February 22, 1980, effective March 1, 1980, 10 Pa.B. 850; amended June 25, 1982, effective June 26, 1982, 12 Pa.B. 1940; amended April 8, 1983, effective April 9, 1983, 13 Pa.B. 1259; amended September 6, 1985, effective September 7, 1985, and applies retroactively to June 1, 1985, 15 Pa.B. 3179; amended February 7, 1992, effective upon publication and apply retroactively to February 1, 1990, 22 Pa.B. 590; amended August 14, 1998, effective immediately and apply retroactively to March 3, 1997, 28 Pa.B. 3939; amended July 28, 2000, the provisions under Act 49 effective retroactive to

September 1, 1994, the provisions under Act 35 effective June 17, 1996, 30 Pa.B. 3779; amended September 13, 2002, effective retroactively to March 3, 1997, with the exception of subsection (e) effective September 14, 2002, 32 Pa.B. 4435; amended October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048. Immediately preceding text appears at serial pages (290921) to (290927).

#### Notes of Decisions

##### *Assignment of Support Payments*

Since 55 Pa. Code § 141.21(d)(1) (relating to policy) only requires the assignment to the Department of support payments received on behalf of a family member receiving public assistance, the support order must be modified by the court which issued it, and thereafter the Department may only collect that portion of support payments attributable to family members receiving public assistance. *Sledge v. Department of Public Welfare*, 402 A.2d 1130 (Pa. Cmwlth. 1979).

#### Cross References

This section cited in 55 Pa. Code § 125.1 (relating to policy); 55 Pa. Code § 133.23 (relating to requirements); 55 Pa. Code § 141.51 (relating to policy); 55 Pa. Code § 151.42 (relating to definitions); 55 Pa. Code § 141.71 (relating to policy); 55 Pa. Code § 153.44 (relating to procedures); 55 Pa. Code § 153.45 (relating to joint or shared custody eligibility determination—statement of policy); 55 Pa. Code § 175.23 (relating to requirements); 55 Pa. Code § 183.2 (relating to definitions); 55 Pa. Code § 183.32 (relating to support); 55 Pa. Code § 183.91 (relating to LRR, parent or legal guardian of an AFDC minor parent, and stepparent deductions); 55 Pa. Code § 183.901 (relating to putative father/voluntary child support—statement of policy); and 55 Pa. Code § 291.23 (relating to requirements).

### ELIGIBILITY PROVISIONS FOR TANF

#### § 141.41. Policy.

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

- (1) Chapter 145 (relating to age).
- (2) Chapter 147 (relating to residence).
- (3) Chapter 149 (relating to citizenship and alienage).
- (4) Chapter 151 (relating to specified relatives).
- (5) Chapter 153 (relating to deprivation of support or care).
- (6) Chapter 161 (relating to persons in institutions).
- (7) Chapter 163 (relating to guardians and trustees).
- (8) Chapter 165 (relating to road to economic self-sufficiency through employment and training (RESET) program).
- (9) Chapter 177 (relating to resources).
- (10) Chapters 125 and 127 (relating to application process; and reserved).
- (11) Chapter 255 (relating to restitution).
- (12) Chapter 257 (relating to reimbursement).

(b) *Social Security number required.* A Social Security number is required for family members for whom assistance is to be granted or is being received. If a

Social Security number is needed and no application has been made, it is the responsibility of the CAO to complete and submit the SSA5 application form.

(c) *Strikers.* Requirements relating to persons on strike are as follows:

(1) An applicant who is on strike on the last day of the calendar month preceding the month of application is ineligible for assistance as follows:

(i) If the person on strike is the natural or adoptive parent, assistance is denied to the entire assistance unit during the period of the strike, regardless of whether the parent is included in the application for assistance.

(ii) If the person on strike is not the natural or adoptive parent, assistance is denied to that individual only during the period of the strike. If the person on strike is the only dependent child, the assistance unit is ineligible for TANF.

(2) A recipient who is on strike on the last day of the calendar month for which payment has been made to the assistance unit is ineligible for assistance as follows:

(i) If the person on strike is a natural or adoptive parent, regardless of whether the parent is included in the assistance grant, the grant is recovered since the assistance unit is ineligible for TANF assistance for that month and subsequent months when the caretaker relative is participating in the strike.

(ii) If another individual, who is not a natural or adoptive parent is participating in a strike, that individual's needs are not used for determining the grant group's need for assistance for that month and shall be recovered. The individual is not eligible for TANF assistance in subsequent months when the individual is participating in the strike. If the individual is the only dependent child of the family, the entire grant is recovered as the family is ineligible for TANF assistance for that month and subsequent months when the individual is participating in the strike.

(iii) Assistance shall be terminated for the first payment month whose deadline can be met if it is anticipated that the strike will continue through the last day of the next calendar month. If the strike ends during a month in which assistance was not received due to participation in the strike the corrective payment provision of § 175.23(b)(1)(v) (relating to requirements) shall be applied.

(d) *Time limits.* An eligible family may receive TANF assistance for a maximum of 60 months subject to the following conditions and exceptions:

(1) A family is ineligible for TANF assistance if it includes an adult head of household or spouse of head of household who has received 60 months of TANF assistance.

(2) Under this subsection, a family does not include a specified relative who is not included in the TANF mandatory filing unit as specified in § 171.21 (relating to policy) and is seeking TANF assistance only for the minor child.

(3) TANF assistance received as a minor child does not count towards the 60-month limit except TANF received as a minor child head of household or as a minor child married to the head of household.

(4) Periods during which TANF assistance is received need not be consecutive to count towards the 60-month limit.

(5) Nothing in this subsection precludes the Department from providing TANF assistance to a family which does not count towards or may extend beyond the 60-month time limit.

(6) The following are not considered TANF “assistance received” in calculating an individual’s 60 months of TANF eligibility:

(i) A period of zero cash issuance.

(ii) Assistance which has been fully reimbursed.

(iii) Assistance repaid due to collection of an overpayment.

(iv) Benefits issued but not received by the individual and the benefits are not replaced.

(v) A period when an individual or budget group is under sanction and, as a result, no assistance benefits are issued.

(vi) An emergency shelter allowance (ESA) payment.

(vii) A period of interim benefits received under § 275.4(d) (relating to procedures) when a final decision has not been handed down by the Bureau of Hearings and Appeals within the appropriate time limit and the budget group’s appeal is eventually denied.

(7) Nothing in this subsection will be interpreted as requiring the Department to provide or continue to provide TANF assistance which does not count toward or may extend beyond the 60-month limit.

(8) Time-out benefits provided under Chapter 281 (relating to time-out benefits) are not counted towards the 60-month time limit.

#### **Authority**

The provisions of this § 141.41 amended under sections 201(2), 403(b), 432 and 432.12 of the Public Welfare Code (62 P. S. §§ 201(2), 403(b), 432 and 432.12); the Support Law (62 P. S. §§ 1971—1977); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; and the Federal TANF regulations in 45 CFR 260.10—265.10.

#### **Source**

The provisions of this § 141.41 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; explained November 6, 1988, 11 Pa.B. 3954; amended November 6, 1981, effective November 7, 1981, 11 Pa.B. 3959; amended June 25, 1982, effective June 20, 1982, 12 Pa.B. 1940; amended April 8, 1983, effective April 9, 1983, 13 Pa.B. 1259; amended August 26, 1988, effective November 1, 1988, 18 Pa.B. 3893; amended October 2, 1992, effective upon publication and apply retroactively to October 1, 1989, 22 Pa.B. 4875; amended September 13, 2002, effective retroactively to March 3, 1997, with the exception of subsections (c) and (d) which is effective September 14, 2002, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (268276) to (268277).

**Cross References**

This section cited in 55 Pa. Code § 108.9 (relating to time limits); 55 Pa. Code § 141.21 (relating to policy); 55 Pa. Code § 141.42 (relating to definitions); 55 Pa. Code § 141.71 (relating to policy); and 55 Pa. Code § 281.1 (relating to policy).

**§ 141.42. Definitions.**

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

*Adult-supervised supportive living arrangement*—A private family setting providing a supportive and supervised living arrangement or other living arrangement, including a private institution, such as a maternity home or a second-chance home, in accordance with § 161.23 (relating to requirements), that:

- (i) If subject to approval, is approved in one of two ways:
  - (A) If a private family setting, the living arrangement has been evaluated and approved by the CAO as conducive to providing a supportive and supervised living arrangement for the minor parent.
  - (B) If a private institutional setting, the institution is subject to approval by a State agency for health, safety or licensing requirements.
- (ii) Is maintained as a supportive family setting and supervised living arrangement as evidenced by:
  - (A) The assumption of responsibility for the care and control of the minor parent and dependent child by a nonrelated adult 21 years of age or older.
  - (B) In addition to food and shelter, the provision of supportive services, such as counseling, guidance or education including parenting skills, child development, family budgeting, health and nutrition and other skills to promote long-term economic independence and the well-being of the minor parent and dependent child.

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

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

*Family*—Except as provided in § 141.41(d)(2) (relating to policy), a minor child and his parent or specified relative, as defined in § 151.42 (relating to definitions), with whom the child lives.

*Minor child*—An individual who is under 18 years of age, or who is under 19 years of age and who is a full-time student in a secondary school—or in the equivalent level of vocational or technical training.

*Minor parent*—A TANF-eligible person under 18 years of age who has never been married and is the natural parent of a dependent child living with the minor parent, or is pregnant or a GA-eligible person 16 or 17 years of age who has never been married and is the natural parent of a dependent child living with the minor parent or is pregnant.

*Strike*—Includes any strike or other concerted stoppage of work by employees—including a stoppage by reason of the expiration of a collective-bargaining agreement—and a concerted slow down or other concerted interruption of operations by employees. See section 501 of the Labor Management Relations Act (29 U.S.C.A. § 142(2)).

(i) Participating in a strike includes failing to report for duty, the willful absence from one's position, the stoppage of work, slow down or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment.

(ii) Willful absence includes absences from one's position unless good cause exists.

(iii) Good cause exists when personal injury or damage to property or applicant's/recipient's life is threatened. Good cause may be corroborated by court, medical, criminal, psychological or law enforcement records. These corroborating records shall specifically relate to the injury or damage which is asserted as good cause. The applicant or recipient has the burden of proving the existence of his good cause claim and shall provide the corroborative evidence required to support the claim prior to approval for assistance benefits.

#### Authority

The provisions of this § 141.42 amended under sections 201(2), 403(b), 432, 432.12 and 432.21(a) of the Public Welfare Code (62 P. S. §§ 201(2), 403(b), 432, 432.12 and 432.21(a)); the Support Law (62 P. S. §§ 1971—1977); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; and the Federal TANF regulations in 45 CFR 260.10—265.10.

#### Source

The provisions of this § 141.42 adopted June 25, 1982, effective June 26, 1982, 12 Pa.B. 1940; amended August 14, 1998, effective immediately and apply retroactively to March 3, 1997, 28 Pa.B. 3939; amended September 13, 2002, effective retroactively to March 3, 1997, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (268277) to (268279).

#### Cross References

This section cited in 55 Pa. Code § 141.21 (relating to policy).

### ELIGIBILITY PROVISIONS FOR EXTENDED TANF

#### § 141.51. Policy.

(a) A family that meets the requirements of Chapter 133, § 141.21 and Chapters 142, 177 and 183 may be eligible for Extended TANF under this chapter.

(b) A family otherwise eligible for TANF but for the 60-month time limit on Federally-funded TANF assistance may receive Extended TANF if the eligibility conditions of § 141.53 (relating to eligibility based on domestic violence) are met or the adult head of household or spouse of head of household who received 60 months of TANF meets the requirements of § 141.54, § 141.55 or § 141.56 (relating to maximizing participation project; mandatory RESET participants; and deferred referral).

(c) A family may receive Extended TANF under more than one section in this chapter. The months during which a family receives Extended TANF need not be sequential.

#### Authority

The provisions of this § 141.51 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); sections 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (62 P.S. §§ 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)); the act of May 16, 1996 (P.L. 175, No. 35); and the Domestic Relations Code, 23 Pa.C.S. §§ 4301—4381, 5103, 7101—7901 and 8101—8418.

#### Source

The provisions of this § 141.51 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

### § 141.52. 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.

*Extended TANF*—Federally-funded TANF cash assistance for eligible families in which an adult head of household or spouse of head of household has received 60 cumulative months of TANF assistance.

*MPP—Maximizing Participation Project*—As defined in § 281.2 (relating to definitions).

*MPP assessment*—An evaluation of medical conditions, functional limitations and good cause situations that may preclude or limit an adult's compliance with RESET.

*MPP service plan*—A document developed by the MPP team in consultation with the individual to outline the steps and services necessary to enable the adult to increase self-sufficiency. This may include one or more of the following:

- (i) Attending English-as-a-Second Language (ESL) classes.
- (ii) Attending mental health counseling.
- (iii) Attending general equivalency diploma (GED) classes.

- (iv) Receiving substance abuse treatment.
- (v) Compliance with a family service plan or family court recommendations.

*MPP team*—A multidisciplinary group consisting of a CAO worker or an agent authorized by the Department and professionals from various disciplines, which may include physicians, psychologists and vocational or behavioral rehabilitation specialists.

*RESET*—*Road to Economic Self-Sufficiency Through Employment and Training*—As defined in § 165.2 (relating to definitions).

*Self-employment*—Operating one's own business, trade or profession for profit equal to or greater than the hourly Federal or State minimum wage, whichever is higher.

*Vocational assessment*—An evaluation of the factors that impact an individual's ability to perform work, including educational level, employment preferences, work history, skills, abilities and life circumstances.

*WCA*—*Work capacity assessment*—An independent evaluation performed by a contractor, of medical conditions, functional limitations or good cause situations that may preclude or limit an individual's compliance with RESET.

*WPP*—*Work Plus Program*—An employment and training program providing work and work-related activities for at least 30 hours per week for individuals eligible for Extended TANF.

#### Authority

The provisions of this § 141.52 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); sections 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (62 P. S. §§ 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)); and the act of May 16, 1996 (P. L. 175, No. 35).

#### Source

The provisions of this § 141.52 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

#### Cross References

This section cited in 55 Pa. Code § 108.9 (relating to time limits); and 55 Pa. Code § 133.23 (relating to requirements).

### § 141.53. Eligibility based on domestic violence.

(a) *Eligibility*. A family may receive Extended TANF if the individual or other family member is or has been a victim of domestic violence, as defined in § 187.22 (relating to definitions) or is at risk of further domestic violence. Eligibility for Extended TANF under this section is subject to the following:

- (1) *Verification of domestic violence not required*. No further verification of domestic violence is required if the individual or other family member has met one of the following:



(i) A current or past good cause waiver of child support cooperation requirements.

(ii) A current or past waiver of RESET requirements under Chapter 165 (relating to Road to Economic Self-Sufficiency Through Employment and Training (RESET)).

(iii) Received time-out benefits under Chapter 281 (relating to time-out benefits) based on domestic violence.

(2) *Verification or self-affirmation of domestic violence required.* If the individual is not excused from providing verification of domestic violence under paragraph (1), the individual shall meet one of the following conditions:

(i) Provide one of the types of verification specified in § 187.27(b)(1)(iv)—(vi) (relating to waiver of cooperation for good cause).

(ii) Affirm in writing that the individual or other family member is at risk of domestic violence and unable to safely obtain other evidence.

(3) *Completion of form.* The CAO and the individual shall complete the Domestic Violence Verification Form under § 187.27(b)(1)(vii), except that the 6-month limitation in § 187.27(b)(1)(vii)(C) does not apply. The perpetrator or alleged perpetrator of the domestic violence is prohibited from completing the Domestic Violence Verification Form.

(b) *Domestic violence services plan.* The individual shall have a domestic violence services plan that meets the requirements of 45 CFR 260.55(c) (relating to what are the additional requirements for Federal recognition of good cause domestic violence waivers).

(c) *Duration.* If otherwise eligible, a family may receive Extended TANF based on domestic violence for as long as necessary.

(d) *Review of eligibility.*

(1) *Review of eligibility.* The CAO will review eligibility for Extended TANF based on domestic violence at least every 6 months.

(2) *Additional verification.* No additional verification of domestic violence is required if circumstances have not changed.

(e) *Ineligibility.* If the individual fails to comply with this section, the family is ineligible for Extended TANF under this section until the individual complies.

(f) *Other bases for eligibility.* A family ineligible for Extended TANF based on domestic violence may be eligible for Extended TANF under § 141.54, § 141.55 or § 141.56 (relating to maximizing participation project; mandatory RESET participants; and deferred referral).

(g) *Definition.* As used in this section, the following word has the following meaning, unless the context clearly indicates otherwise:

*Individual*—The adult head of household or spouse of head of household.

**Authority**

The provisions of this § 141.53 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); sections 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (62 P.S. §§ 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)); the act of May 16, 1996 (P.L. 175, No. 35); and the Domestic Relations Code, 23 Pa.C.S. §§ 4301—4381, 5103, 7101—7901 and 8101—8418.

**Source**

The provisions of this § 141.53 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

**Cross References**

This section cited in 55 Pa. Code § 108.9 (relating to time limits); 55 Pa. Code § 141.51 (relating to policy); 55 Pa. Code § 141.56 (relating to deferred referral); 55 Pa. Code § 141.57 (relating to special allowances); and 55 Pa. Code § 141.61 (relating to policy).

**§ 141.54. Maximizing participation project.**

(a) *Eligibility.* A family may be eligible for Extended TANF under this section if the individual who has received 60 months of TANF assistance meets the requirements of paragraph (1), (2) or (3). The individual is:

(1) Exempt from participation in RESET because the individual is mentally or physically disabled as verified by a physician or licensed psychologist and the disability temporarily or permanently precludes any form of employment or work-related activity.

(2) Not exempt from RESET but has good cause for not complying with RESET and referral to MPP, WPP or another employment and training program was deferred under § 141.56(a)(2) (relating to deferred referral).

(3) Exempt from participation in RESET because the individual is the parent or specified relative who is providing care for a child under 6 years of age and for whom alternate child care arrangement is unavailable, and referral to MPP, WPP or another employment and training program was deferred under § 141.56(a)(3).

(b) *Requirements.*

(1) *General.* Except as provided in paragraph (2), as a condition of eligibility under this section, the individual shall:

(i) Agree on an AMR to enroll in MPP, cooperate in obtaining a WCA, sign and comply with the MPP service plan.

(ii) Enroll in MPP, cooperate in obtaining a WCA, sign and comply with the MPP service plan.

(iii) Authorize the release of information and cooperate in obtaining information relevant to the WCA, MPP assessment or MPP service plan, whichever applies.

(2) *Exceptions to WCA requirement.*

(i) An individual whose current enrollment in MPP began before the individual received 60 months of TANF assistance, or who is grandfathered under this section, as described in subparagraph (ii), may continue in MPP without a WCA if one of the following applies:

(A) The individual has received an MPP assessment.

(B) The individual has agreed on an AMR to receive an MPP assessment.

(ii) An individual is grandfathered under this section if the individual's current enrollment in MPP began before implementation of this section.

(3) *The WCA.*

(i) *Purpose and scope.*

(A) The WCA will seek to identify:

(I) The nature and extent of medical conditions, functional limitations and good cause situations that preclude or limit the individual from complying with RESET participation requirements.

(II) The individual's range of ability to engage in work and work-related activities, with and without appropriate treatment.

(B) The WCA will include an evaluation of existing documentation regarding medical conditions and functional limitations. The WCA will also include consideration of previously undiagnosed conditions and limitations.

(C) For evaluation of a medical condition or functional limitations, the WCA will require an examination of the individual. For evaluation of a good cause situation, the WCA may require an examination of the individual if necessary and relevant to the determination of the good cause situation.

(D) The WCA may include additional testing as needed to facilitate diagnosis and appropriate treatment recommendations.

(E) The findings and recommendations of the WCA will be provided to the MPP team.

(ii) *Standards for review of medical conditions and functional limitations.*

(A) If the individual has a medical condition or functional limitation that precludes or limits compliance with RESET, the WCA will be conducted based upon accepted medical standards for the evaluation of impairments, using a standard framework and method of analysis.

(B) The standard framework and method of analysis used for the evaluation of temporary and permanent impairments will be the most recent edition of the American Medical Association, "Guides to the Evaluation of Permanent Impairment."

(iii) *Evidence of medical conditions and functional limitations.*

(A) *Existing documentation.* The individual shall obtain existing documentation regarding medical conditions and functional limitations that may

preclude or limit compliance with RESET, including available records of the treating physician and psychologist. If necessary, the Department or its agent will assist the individual in obtaining existing documentation.

(B) *Treating physician opinions.* The WCA will include consideration of available opinions of the treating physician.

(4) *Results of the WCA or MPP assessment.*

(i) If the results of the WCA or MPP assessment reveal a medical condition, functional limitation or good cause situation that precludes the individual from complying with RESET, the MPP team will develop an MPP service plan in consultation with the individual.

(ii) If the results of the WCA or MPP assessment do not reveal a medical condition, functional limitation or good cause situation that precludes the individual from complying with RESET, the individual will be referred to an appropriate employment and training activity. If the results indicate that there is a medical condition, functional limitation or good cause situation that limits but does not preclude the individual's ability to participate in RESET, the relevant WCA findings and recommendations will be provided with the referral.

(iii) An individual who disagrees with the findings or recommendations of the WCA may request a second opinion WCA.

(c) *Ineligibility.* If the individual fails to comply with this section, the family is ineligible for Extended TANF under this section until the individual complies.

(d) *Definition.* As used in this section, the following word has the following meaning, unless the context clearly indicates otherwise:

*Individual*—The adult head of household or spouse of head of household.

#### Authority

The provisions of this § 141.54 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); sections 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (62 P.S. §§ 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)); the act of May 16, 1996 (P.L. 175, No. 35); and the Domestic Relations Code, 23 Pa.C.S. §§ 4301—4381, 5103, 7101—7901 and 8101—8418.

#### Source

The provisions of this § 141.54 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

#### Cross References

This section cited in 55 Pa. Code § 141.51 (relating to policy); 55 Pa. Code § 141.53 (relating to eligibility based on domestic violence); 55 Pa. Code § 141.57 (relating to special allowance); and 55 Pa. Code § 141.61 (relating to policy).

**§ 141.55. Mandatory RESET participants.**

(a) *General.* A family may qualify for Extended TANF under this section if the individual who has received 60 months of TANF meets the requirements of this section, as follows:

(1) *Employed 30 or more hours per week.* If the individual is employed at least 30 hours per week in unsubsidized employment, including self-employment, no additional work or work activity is required. The individual may volunteer for employment and training programs that are designed to increase the individual's earning capacity.

(2) *Participating in an employment and training program.* The individual is continuing participation in an employment and training program approved on an AMR while the individual was receiving TANF.

(3) *Employed 20—29 hours per week.* An individual who is employed 20—29 hours per week in unsubsidized employment, including self-employment, shall maintain employment. Except as specified in paragraph (6), the individual shall also enroll and participate in a job retention and advancement program, funded or approved by the Department, to bring the combined total number of hours to at least 30 hours per week.

(4) *Employed less than 20 hours per week.* An individual who is employed less than 20 hours per week in unsubsidized employment shall maintain employment. Except as specified in paragraph (6), the individual shall also enroll and participate in WPP, to bring the combined total number of hours to at least 30 hours per week.

(5) *Not employed.* Except as specified in paragraph (6), an individual who is not employed in unsubsidized employment shall enroll and participate in WPP for at least 30 hours per week.

(6) *Special good cause provision.* If the individual establishes good cause for not participating in at least 30 hours per week of combined work and work-related activities but is required to comply with RESET, the following rules apply:

(i) If the individual is employed 20—29 hours per week in unsubsidized employment, the individual shall maintain employment.

(ii) If the individual is employed less than 20 hours per week in unsubsidized employment, the individual shall maintain employment. The individual shall also agree on an AMR to comply with RESET by participating in WPP for a combined total of at least 20 hours per week.

(iii) If the individual is not employed in unsubsidized employment, the individual shall agree on an AMR to comply with RESET by participating in WPP for at least 20 hours per week.

(iv) The individual who establishes good cause for not participating in at least 30 hours per week of combined work and work-related activities shall also agree on an AMR to address the good cause situation. The AMR will

set forth the steps the individual shall undertake to address the good cause situation including cooperation with a WPP contractor.

(b) *WPP.*

(1) An individual enrolled in WPP shall cooperate in obtaining a vocational assessment, performed by an employment and training contractor.

(2) If the results of the vocational assessment indicate that the individual is not precluded from complying with RESET, the individual shall participate a minimum of 30 hours per week in a combination of work and work-related activities, in accordance with the Fair Labor Standards Act (29 U.S.C.A. §§ 201—219). Work-related activities may include English-as-a-Second Language (ESL) classes. If the individual establishes good cause for not participating in at least 30 hours per week of work and work-related activities, the individual shall comply with RESET in accordance with subsection (a)(6).

(3) If the results of the vocational assessment reveal a medical condition, functional limitation or good cause situation that precludes the individual from complying with RESET requirements, the individual shall be referred to MPP.

(4) If the results of the vocational assessment indicate that the individual is not precluded from complying with RESET but, because of disability, needs a reasonable accommodation of program rules and requirements, that accommodation shall be made, in accordance with Title II of the Americans With Disabilities Act (42 U.S.C.A. §§ 12131—12165). Findings and recommendations provided with a referral from MPP will be considered in providing accommodation.

(c) *Sanctions.* If the individual fails to comply with this section, a compliance review is conducted in accordance with § 165.51 (relating to compliance review). If the individual willfully fails, without good cause, as described in § 165.52 (relating to good cause), to comply with § 141.55, a sanction is imposed on the budget group under § 165.61 (relating to sanctions).

(d) *Definition.* As used in this section, the following word has the following meaning, unless the context clearly indicates otherwise:

*Individual*—The adult head of household or spouse of head of household.

#### Authority

The provisions of this § 141.55 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); sections 201(1), 401(a), 402, 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (62 P. S. §§ 201(1), 401(a), 402, 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)); and the act of May 16, 1996 (P. L. 175, No. 35).

#### Source

The provisions of this § 141.55 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

**Cross References**

This section cited in 55 Pa. Code § 141.51 (relating to policy); 55 Pa. Code § 141.53 (relating to eligibility based on domestic violence); 55 Pa. Code § 141.56 (relating to deferred referral); 55 Pa. Code § 141.57 (relating to special allowances); and 55 Pa. Code § 141.61 (relating to policy).

**§ 141.56. Deferred referral.**

(a) *General.* A family may qualify for Extended TANF if the individual meets one of the eligibility criteria of paragraphs (1)—(4) and complies with an AMR. The individual is:

(1) A parent in a one-parent household who is caring for a child who has not attained the age of 12 months and the parent is exempt from RESET under § 165.21(c)(4) (relating to exemptions from RESET participation requirements).

(2) Caring for a disabled child or adult for whom appropriate care is unavailable within a reasonable distance from home or otherwise establishes good cause for not complying with RESET under § 165.52 (relating to good cause).

(3) The parent or specified relative who is providing care for a child under 6 years of age and for whom alternate child care arrangement is unavailable.

(4) In the process of a compliance review under § 165.51 (relating to compliance review) or receiving TANF assistance pending timely appeal under § 275.4(a)(3)(v)(C)(I) (relating to procedures).

(b) *Redetermination.*

(1) The CAO will redetermine eligibility under subsection (a)(1) every 6 months or on the date the 12-month limit on the parent's exemption from RESET under § 165.21(c)(4) expires, whichever is sooner.

(2) Except for eligibility under subsection (a)(1), the CAO will determine eligibility under this section when circumstances change and no less often than every 90 days.

(c) *Outcome of redetermination.*

(1) If circumstances have changed so that the family no longer meets the requirements of subsection (a), the CAO will determine if the family is otherwise eligible for Extended TANF under § 141.53, § 141.54 or § 141.55 (relating to eligibility due to domestic violence; maximizing participation project; and mandatory RESET participants).

(2) If circumstances have not changed, the CAO will refer the individual to MPP unless the basis for deferred referral is expected to be resolved in less than 90 days from the date of redetermination.

(d) *Definition.* As used in this section, the following word has the following meaning, unless the context clearly indicates otherwise:

*Individual*—The adult head of household or spouse of head of household.

**Authority**

The provisions of this § 141.56 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); sections 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (62 P.S. §§ 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)); and the act of May 16, 1996 (P.L. 175, No. 35).

**Source**

The provisions of this § 141.56 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

**Cross References**

This section cited in 55 Pa. Code § 141.51 (relating to policy); 55 Pa. Code § 141.53 (relating to eligibility based on domestic violence); 55 Pa. Code § 141.54 (relating to maximizing participation project); and 55 Pa. Code § 141.61 (relating to policy).

**§ 141.57. Special allowances.**

(a) An individual who receives Extended TANF as specified in §§ 141.53—141.55 (relating to eligibility based on domestic violence; maximizing participation project; and mandatory RESET participants) may receive special allowances under § 165.41 (relating to eligibility for special allowances for supportive services).

(b) An individual who is eligible for Extended TANF may receive special allowances, including allowances for child care and transportation necessary to enable the individual to participate in programs and activities that are part of the individual's MPP service plan, domestic violence services plan or employment and training activities listed on the AMR.

**Authority**

The provisions of this § 141.57 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); sections 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a) of the Public Welfare Code (62 P.S. §§ 201(1), 401(a), 403(b), 405, 405.1, 405.3, 432, 432(3) and (8) and 432.21(a)); the act of May 16, 1996 (P.L. 175, No. 35); and the Domestic Relations Code, 23 Pa.C.S. §§ 4301—4381, 5103, 7101—7901 and 8101—8418.

**Source**

The provisions of this § 141.57 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

**§ 141.58. Appeal rights.**

An individual may appeal the denial or termination of Extended TANF under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).



**Authority**

The provisions of this § 141.58 issued under sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); and sections 201(1), 401(a) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(1), 401(a) and 403(b)).

**Source**

The provisions of this § 141.58 adopted October 11, 2002, effective October 12, 2002, 32 Pa.B. 5048.

**ELIGIBILITY PROVISIONS FOR GA****§ 141.61. Policy.**

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

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

- (i) Chapter 145 (relating to age).
- (ii) Chapter 147 (relating to residence).
- (iii) Chapter 149 (relating to citizenship and alienage).
- (iv) Chapter 161 (relating to persons in institutions).
- (v) Chapter 163 (relating to guardians and trustees).
- (vi) Chapter 165 (relating to road to economic self-sufficiency through employment and training (RESET) program).
- (vii) Chapter 177 (relating to resources).
- (viii) Chapters 125 and 127 (relating to application process; and reserved).
- (ix) Chapter 255 (relating to restitution).
- (x) Chapter 257 (relating to reimbursement).
- (xi) Furthermore, eligibility for GA requires that the person is not receiving SBP or SSI. However, a person receiving SSI, but who is receiving less than the maximum SSI payment may receive assistance to supplement his SSI. Refer to §§ 297.1(e)(4) and 297.3(n) (relating to policy; and requirements).

(xii) Furthermore, eligibility for GA requires that the person be ineligible for TANF and Extended TANF because of failure to meet TANF and Extended TANF definitive conditions. An applicant or recipient who does not qualify for TANF or Extended TANF solely because of a refusal or failure, without good cause, to establish eligibility for TANF or Extended TANF is ineligible for GA. A person meeting definitive conditions but ineligible for TANF because of income, resources or participation in a strike is not eligible for GA. A person who refuses without good cause to cooperate in establish-

ing paternity or support as required in the TANF or Extended TANF program is ineligible for GA. A family in which an adult refuses or fails, without good cause, to cooperate in establishing and maintaining eligibility for Extended TANF as provided in §§ 141.53—141.56 is also ineligible for GA.

(xiii) Furthermore, a full-time student at a college or university is not eligible as a categorically needy person for General Assistance—cash grant (GA) or Medical Assistance (PD)—unless he has participated in a Federally subsidized program for dependent children—TANF—within the previous 5 years.

(xiv) A GA cash assistance applicant is ineligible for 30 days after the termination of employment if the applicant voluntarily terminates the employment without good cause. Good cause includes the circumstances beyond a person's control specified § 165.52(a) (relating to good cause).

(2) Before authorizing GA to a family with dependent children, a thorough determination shall be made as to whether the family meets the definitive conditions for TANF or Emergency Assistance (EA—Family Cash Assistance). For GA cases with dependent children, the case narrative shall substantiate that the TANF and EA categories were considered and include the reason the case was not eligible for one of these three categories.

(3) Otherwise eligible families with children under the age of 21 who do not qualify for TANF shall be authorized EA—Family Cash Assistance because an emergency situation has caused the family's need for financial help. The family shall qualify for EA—Family Cash Assistance for up to 30-consecutive days within a 12-month period. To authorize EA—Family Cash Assistance, procedures in § 289.4(b) (relating to procedures) for applicant/recipient families with children under 21 who do not qualify for TANF shall be applied. EA—Family Cash Assistance shall never be granted concurrently with GA.

(4) Only the Executive Director, or District Supervisor in districted counties, shall approve GA authorizations of cases with dependent children under § 227.24(j)(5)(viii) (relating to procedures).

(b) *Social Security number required.* A Social Security number is required for each family member for whom assistance is to be granted or is being received. If a Social Security number is needed and no application has been made, it is the responsibility of the CAO to complete and submit the SSA-5 application form.

(c) *Determining GA categorical eligibility.* An applicant for, or recipient of, GA is determined to be eligible in accordance with the following:

(1) A person is eligible to receive GA for an indeterminate period due to medical, social or related circumstances. Persons who may qualify for GA are limited to the following:

(i) A child who is under age 18; or who is 18 through 20 years of age and is attending a secondary or equivalent vocational or technical school

full-time and may reasonably be expected to complete the program before reaching 21 years of age. Age, school enrollment and attendance shall be verified.

(ii) Parents residing in a two-parent household with their child who is under 13 years of age or their child who is under 21 years of age and who has a disability. The age, residence and disability (if applicable) of the child shall be verified. Both parents as well as the child shall be included in the application. If the family is ineligible under this provision, either parent or child may qualify under another criterion.

(iii) A person who has been assessed by a physician or psychologist as having a temporary or permanent disability which precludes him from working in any gainful employment. The following conditions apply:

(A) Documentation which demonstrates the relationship between the disability and the inability to work shall be provided by the client during the application interview for cash assistance or, in the case of recipients, within 30-calendar days after the date of the redetermination.

(B) With the exception of documentation under subclause (II), documentation shall be on a form provided by the Department and completed by a physician or a psychologist.

(I) The CAO's medical consultant may be used in those cases that the IMU worker is unable to establish the inability to work based on the disability.

(II) The verification may also be provided by sources including, but not limited to, the SSA indicating approval for disability benefits or on a disability determination of 50% or greater made by the Department of Veterans Affairs (DVA). A medical certification of disability provided by the Department's Medical Review Team (MRT) is also acceptable documentation of illness or disability. Documentation from sources other than the SSA, DVA or MRT is also acceptable if it clearly states the relationship between the disability and the person's employability. In addition, this documentation shall be less than 6 months old at the time of application or redetermination unless the condition to which it refers is permanent or chronic. The verification of physical or mental disability shall be based on acceptable clinical and laboratory diagnostic techniques rather than a statement of symptoms by the applicant or recipient.

(C) An applicant or recipient who claims a physical or mental disability which temporarily or permanently precludes the applicant or recipient from any gainful employment but who does not have the documentation at the application or within 30 days of the redetermination interview shall be determined ineligible for GA until the documentation is presented to the CAO. The CAO shall determine eligibility for the MNO Program to cover the cost of the employability assessment only for persons who allege eli-

gibility based on a physical or mental disability. Reasonable accommodations to assist a person to secure documentation during this period shall be provided to a person who is prevented from cooperating due to a physical or mental disability.

(D) A person who has a serious physical or mental disability which prevents employment and which is documented in accordance with this subparagraph may be authorized as GA even if the person is undergoing active treatment or has undergone treatment for substance abuse in a drug or alcohol treatment program. Eligibility for GA on the basis of having a serious physical or mental disability is not contingent upon participation in a drug or alcohol treatment program as long as the person remains disabled after the substance abuse is successfully treated.

(E) A person who has a disability solely related to substance abuse that prevents employment and which has been documented in accordance with this subparagraph may be authorized as GA. Eligibility for GA on this basis is contingent upon accepting and participating in available drug or alcohol treatment services.

(F) An applicant or recipient who has a verified physical or mental disability which is temporary shall seek appropriate treatment as a condition of eligibility.

(iv) A nonparental caretaker of a child under 13 years of age or a caretaker of an individual who is ill or disabled. The caretaker shall reside with the individual for whom he provides care and his presence must be required. A caretaker's presence in the home will not be considered as required if there is another person in the home who is able to provide the care without the need for GA. The caretaker shall provide documentation of the age of the child or the illness or disability of the individual needing care.

(v) A person who is undergoing active treatment for substance abuse in a drug or alcohol treatment program licensed or approved by the Department of Health or administered by an agency of the Federal government as long as the treatment precludes the person from engaging in any form of employment. Eligibility under this criterion is limited to a maximum of 9 months in the lifetime of the person regardless of whether or not treatment is continuing upon expiration of the 9-month time limit.

(vi) A pregnant woman whose pregnancy has been medically verified and who is ineligible for TANF.

(vii) A person who is a victim of domestic violence or another abusive living situation and is receiving protective services. It is not necessary that the service be continuous or rendered on a daily, weekly or monthly basis. Eligibility under this criterion is limited to a maximum of 9 months in the lifetime of the person, regardless of whether or not protective services are continuing upon expiration of the 9-month time limit. The person shall verify

that the person is receiving one of the following protective services, or is involved in one of the following activities:

- (A) Residing in an emergency shelter or emergency housing for abused persons.
- (B) Receiving supportive counseling from a professional counseling source.
- (C) Receiving social services to prevent further potential abuse.
- (D) Receiving social services necessary to enable the person to remain in his own home.
- (E) Filing of assault or battery or other charges with a law enforcement agency related to seeking protection from the abuser.
- (F) Obtaining a restraining order or peace bond against the abuser.
- (G) Receiving services from any branch of government (including the courts or the police) or agency meant to counsel or protect the individual from abuse. Information provided by or on behalf of a victim of abuse is confidential and subject to Chapter 105 (relating to safeguarding information).

(2) GA recipients are eligible for the MNO level of benefits. In addition, these persons receive coverage for prescribed medications. GA recipients eligible for Federally-funded MA receive additional benefits under the MA Program. Children under age 21, pregnant women, migrants, refugees eligible for MA up to 8 months from date of entry into the United States, as specified in 45 CFR 400.90 (relating to basis and scope), repatriated nationals and persons who have applied for or been referred to the SSA for Social Security or SSI disability benefits qualify for Federally-funded MA.

#### Authority

The provisions of this § 141.61 amended under sections 201(2), 401(a), 403(b), 405, 405.1, 405.3, 432, 432.12 and 432.21(a) of the Public Welfare Code (62 P. S. §§ 201(2), 401(a), 403(b), 405, 405.1, 405.3, 432, 432.12 and 432.21(a)); sections 402(a)(7)(A)(iii) and (B) and 408(a)(7)(A) and (C) of the Social Security Act (42 U.S.C.A. §§ 602(a)(7)(A)(iii) and (B) and 608(a)(7)(A) and (C)); 45 CFR 264.1(c); the act of May 16, 1996 (P. L. 175, No. 35); and the Domestic Relations Code, 23 Pa.C.S. 4301—4381, 5103, 7101—7901 and 8101—8418).

#### Source

The provisions of this § 141.61 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; amended January 13, 1978, effective January 1, 1978, 8 Pa.B. 141; amended July 28, 1978, effective July 1, 1978, 8 Pa.B. 2105; amended December 29, 1978, effective August 24, 1978, 8 Pa.B. 3815; March 7, 1980, effective March 8, 1980, 10 Pa.B. 983; corrected March 23, 1980, effective March 8, 1980, 10 Pa.B. 1304; implemented July 11, 1980, effective May 15, 1980 for new applicants and effective June 1, 1980 for currently active applicants, 10 Pa.B. 2980 and 3102; amended November 21, 1980, effective May 15, 1980, 10 Pa.B. 4426; amended June 25, 1982, effective June 26, 1982, 12 Pa.B. 1940; amended August 26, 1988, effective November 1, 1988, 18 Pa.B. 3893; amended August 26, 1988, effective November 1, 1988, 18 Pa.B. 3921; amended October 2, 1992, effective upon publication and apply retroactively to October 1, 1989, 22 Pa.B. 4875; amended July 28, 2000, the disability verification provision under subsection (d)(iii)(B)(II) effective retroactive to July 17,

1993, the provisions under Act 49 effective retroactive to September 1, 1994, the provisions under Act 20 effective retroactive to July 1, 1995, the provisions under Act 35, effective retroactive to June 17, 1996, the effective date of the disability verification provision under § 141.61(d)(1)(iii)(B)(II) is retroactive to July 17, 1993, 30 Pa.B. 3779; amended September 13, 2002, effective retroactively to March 3, 1997, with the exception of subsection (c) which becomes effective September 14, 2002, 32 Pa.B. 4435; amended October 11, 2002, subsection (a)(1) effective March 3, 1997, and subsection (c) effective September 14, 2002, 32 Pa.B. 5048. Immediately preceding text appears at serial pages (290932) to (290937).

#### Notes of Decisions

##### *Chronically Needy Person*

Subsection (d)(1)(viii) requires that employment be verified for the purpose of determining eligibility for “chronically needy” status. *Fisher v. Department of Public Welfare*, 475 A.2d 873 (Pa. Cmwlth. 1984); reversed 501 A.2d 617 (Pa. 1985).

Where an applicant seeks to qualify for general assistance benefits as a “chronically needy” person, but fails to submit medical documentation until after “transitionally needy” benefits have been terminated due to expiration of the 90-day period provided for in subsection (d)(1)(iii)(c)(I), the regulation does not require retroactive payment for the period after termination and prior to classification as “chronically needy.” *Sheets v. Department of Public Welfare*, 496 A.2d 65 (Pa. Cmwlth. 1985).

A chiropractor’s statement is insufficient documentation for purposes of establishing “chronically needy” status under subsection (d)(1)(iii)(B). *Hardy v. Department of Public Welfare*, 473 A.2d 1138 (Pa. Cmwlth. 1984).

##### *Equal Protection*

Since there is no constitutional right to receive public welfare or a college education, and since denial of general welfare assistance to full-time college students with no previous history of family need is rationally related to the legitimate state goals of preserving fiscal integrity and eliminating undeserving individuals from the welfare rolls, § 141.61(a)(1)(xiii), implementing 62 P. S. § 403(d), is not an unconstitutional denial of equal protection. *Walker v. O’Bannon*, 487 F. Supp. 1151 (W. D. Pa. 1980); affirmed 624 F.2d 1092 (3rd. Cir. (Pa.) 1980).

##### *Form*

The regulation requiring that proof of disability for general assistance be on a Department of Public Welfare form was upheld as in accordance with the legislative intent. *Zamattio v. Department of Public Welfare*, 625 A.2d 746 (Pa. Cmwlth. 1993).

##### *Full-time College Student*

Full-time college students who have not participated in a Federally subsidized program for dependent children within the previous 5 years are not eligible for general assistance; this section does not violate the legislative intent set forth at 62 P. S. § 401 in that the prohibition is clear and free from all ambiguity. *Yanushko v. Department of Public Welfare*, 543 A.2d 1277 (Pa. Cmwlth. 1988).

##### *Ineligibility for AFDC*

The requirement that to be eligible for general assistance an applicant be ineligible for AFDC is reasonable and in keeping with the purpose of the general assistance program in that it ensures maximum allocation of scarce state resources to those most needy. *Snyder v. Department of Public Welfare*, 492 A.2d 124 (Pa. Cmwlth. 1985).

##### *Initial Application*

55 Pa. Code § 141.81(g)(1) (relating to policy) is reasonable and is clear and unambiguous, and an exception to its application is not warranted even though a private insurance carrier alters its stated

coverage after tentatively agreeing to cover the expenses, since the insurance carrier gave notice of its revised coverage before the end of the 90-day period. *Berry v. Department of Public Welfare*, 401 A.2d 602 (Pa. Cmwlth. 1979).

#### Cross References

This section cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver); 55 Pa. Code § 141.21 (relating to policy); 55 Pa. Code § 141.71 (relating to policy); and 55 Pa. Code § 145.64 (relating to procedures).

### § 141.62. Definitions.

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

*College or university*—An institution of higher learning that has been approved by the Secretary of Education and which offers a post-secondary program of education leading to the award of a degree, such as Associate or Bachelor. “College” includes Junior Colleges and Community Colleges, and the like, offering a 2-year educational program as well as colleges offering a 4-year program.

*Full-time student*—A student who has a school schedule equal to a full-time curriculum for the program being pursued as defined by a college or university.

*Natural disaster*—A natural event such as flood, tornado or earthquake, or the like, causing major loss of personal resources.

#### Source

The provisions of this § 141.62 adopted March 7, 1980, effective March 8, 1980, 10 Pa.B. 983; implemented July 11, 1980, effective May 15, 1980 for new applicants and effective June 1, 1980 for currently active cases, 10 Pa.B. 2980 and 10 Pa.B. 3102; amended June 25, 1982, effective June 26, 1982, 12 Pa.B. 1940. Immediately preceding text appears at serial page (57899).

### ELIGIBILITY PROVISIONS FOR MA FOR THE CATEGORICALLY NEEDY

### § 141.71. Policy.

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

- (2) Chapter 147 (relating to residence).
- (3) Chapter 149 (relating to citizenship and alienage). This applies only to PC.
- (4) Chapter 153 (relating to deprivation of support or care). This applies only to PC and § 153.44(a) (relating to procedures) does not apply.
- (5) Chapter 161 (relating to persons in institutions).
- (6) Chapters 177 and 181 (relating to resources; and income provisions for categorically needy NMP-MA and MNO-MA).
- (7) Chapter 125 (relating to application process).
- (8) Chapter 255 (relating to restitution).
- (9) Chapter 155 (relating to enumeration).
- (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 individuals described in paragraphs (1)—(6).

(1) Persons who are ineligible for TANF and GA payments only because of their failure to satisfy an eligibility condition or other requirement prohibited by Title XIX of the Social Security Act (42 U.S.C.A. §§ 1396—1396q) especially Subparts C and D. (See Subparts C and D.) Also included are persons who, though eligible for a money payment, decide they do not want the payment, but do want medical care.

(2) Persons in a medical institution whose incomes exceed the allowance for their personal care items but are less than the amount they would need to provide for their living requirements on an assistance level if they were outside the institution.

(3) TANF families whose assistance was discontinued because of increased income from, or increased hours of, employment if the family received TANF in at least 3 of the 6 months immediately preceding the month in which assistance was discontinued. NMP will continue for 4 calendar months beginning with the effective date on which assistance was discontinued as long as any member of the family is employed and all other eligibility criteria continue to be met during the 4 month period. A determination of resources as set forth in Chapter 177 and need as set forth in Subpart D (relating to determination of need and amount of assistance) may not be required. In those instances where a person's TANF payments are discontinued retroactively because the client failed to report changes in a timely manner, the 4 months begin with the date on which assistance was erroneously paid.

(4) Persons who are ineligible for TANF, GA or SSI only because of the 20% OASDI increase they received for September of 1972. Reference should be made to Chapter 183 (relating to income) for procedures on disregard of the 20% increase.

(5) Aged, blind or disabled individuals who were receiving SSI but become ineligible for SSI payments because of OASDI cost-of-living increases paid after April 1977. In June of each year, the County Assistance Office (CAO) will be provided with identifying case data for those SSI recipients who are entitled to retain categorically needy MA eligibility. The CAO will promptly change the category designation from A, M, or J to PA, PM or PJ and will send a written notice to the client. The notice will advise the client that although he is no longer eligible for SSI he will continue to be eligible for MA as long as his circumstances remain unchanged. It shall be his responsibility to report to the CAO any changes that may occur.

(6) Applicants or recipients who would be eligible for cash assistance but for the elimination of the \$30 plus 1/3 remainder of the earned income incentive deduction for 4 consecutive months or the \$90 work expense deduction, or



both, in accordance with § 181.311(2)(ii) (relating to deductions from earned income for the TANF categories of NMP-MA).

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

(c) *Money payment recipients.* The following persons will be eligible for MA services provided the recipient does not have resources such as medical insurance or governmental benefits that cover the costs of the services at MA standards:

(1) Persons eligible for SSI.

(2) Persons who meet the definitive conditions of TANF, GA or SBP. GA persons, who are not eligible for Federally-funded MA and who are eligible to receive a cash payment are entitled to MNO level of benefits if otherwise eligible. In addition, these persons receive coverage for prescribed medications. GA-related MA recipients eligible for Federally-funded MA receive additional benefits under the MA Program. Children under 21 years of age, pregnant women, migrants, refugees eligible for MA up to 8 months from date of entry into the United States, as specified in 45 CFR 400.90 (relating to basis and scope), repatriated nationals and persons who have applied for or been referred to the SSA for Social Security or SSI disability benefits qualify for Federally-funded MA.

(3) Newborn babies who would be included in a family that meets the definitive conditions of AFDC.

(4) Children adopted under the Adoption Opportunities Act of 1974 (62 P. S. §§ 771—774), if financially eligible and either the adoptive parents are receiving a maintenance subsidy from Child Welfare or a physician certified prior to the adoption that the child has a physical or mental handicap. The adoptive parents are in no way financially responsible for providing help in paying for these medical services.

(5) A recipient of SBP may not be eligible for payment for inpatient hospital care, physician's service while in a hospital, laboratory and x-ray services in independent facilities, three pints of whole blood, hospital-home care, intermediate care or public nursing home care unless he qualifies as medically needy as set forth in § 141.81 (relating to eligibility policy for Medically Needy Only).

(6) A person under 65 may not be eligible if he is a patient in an institution for tuberculosis.

(7) GA recipients may not be eligible for intermediate care.

(8) A person between 21 and 65 may not be eligible if he is a patient in an institution for mental diseases.

(d) *Modifications to requirements.* Modifications to requirements will be allowed under the following circumstances:

(1) Except for the modifications listed in this section, the applicant shall meet the requirements and procedures peculiar to TANF or GA. However, if

the person is eligible because he is a specified relative as provided in § 151.43 (relating to requirements) or under 21 or over 65 years of age, it may not be necessary to determine whether he meets the conditions of disability or blindness.

(2) A decision that the applicant does or does not meet the definitive conditions for TANF shall be supported in the case record.

(3) To identify the type of assistance the applicant would be eligible for, the appropriate symbol will be added to the category symbol P. For example PC means that the person is a categorically needy-nonmoney payment recipient who meets the definitive conditions for TANF.

(e) *PC (Categorically Needy NMP-AFDC) requirements.* All regulations and procedures as set forth in § 141.41 (relating to policy) apply except the following:

(1) The child need not be living with a specified relative, including children in foster homes. To be considered a specified relative, the relative shall meet the conditions as set forth in § 151.42 (relating to definitions).

(2) The child between 18 and 21 need not be attending school.

(3) The child support referral, cooperation and assignment requirements of § 141.21 (relating to policy) is not applicable.

(f) *Period when eligibility begins and ends.* Eligibility periods will begin and end in accordance with the following:

(1) For the money payment recipient, eligibility for MA will begin 90 days preceding the date the authorization is certified. For the NMP person, eligibility for MA will begin 90 days preceding the effective date entered on the NMP Authorization Card.

(2) For the money payment recipient, eligibility for MA will end on the last day covered by the last assistance check he receives. For the NMP person, eligibility for MA will end on the date he no longer meets eligibility conditions.

(3) If the money payment to a recipient who is a patient receiving care in an institution is discontinued, his eligibility for MA services as a categorically needy person will continue as long as he is otherwise financially eligible.

(4) A person no longer eligible for MA services as a categorically needy person may be eligible for MA service as a medically needy person.

(g) *PD (Categorically Needy NMP-GA) requirements.* The policy and procedures in § 141.61 (relating to policy) apply. A person who does not receive a cash payment and who is not eligible for Federally-funded MA as described in subsection (c)(2) is entitled to the MNO level of benefits if otherwise eligible. In addition, these persons receive coverage for prescribed medications.

#### Authority

The provisions of this § 141.71 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P.S. §§ 201(2) and 403(b)); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—

669(b) and 1396u-1; section 1902(a)(10)(A) of the Social Security Act (42 U.S.C.A. § 1396a(a)(10)(A)); and the Federal TANF regulations in 45 CFR 260.10—265.10.

#### Source

The provisions of this § 141.71 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; amended March 7, 1980, effective March 8, 1980, 10 Pa.B. 983; amended March 28, 1980, effective February 1, 1980, 10 Pa.B. 1390; implemented July 11, 1980, effective May 15, 1980 for new applicants and effective June 1, 1980 for currently active applicants, 10 Pa.B. 2980 and 10 Pa.B. 3102; amended June 25, 1982, effective June 26, 1982, 12 Pa.B. 1940; amended October 2, 1992, effective upon publication and apply retroactively to August 1, 1989, 22 Pa.B. 4875; amended July 28, 2000, the provisions under Act 49 effective retroactive to September 1, 1994, the provisions under Act 20 effective retroactive to July 1, 1995, the provisions under Act 35 effective retroactive to June 17, 1996, 30 Pa.B. 3779; amended September 13, 2002, effective retroactively to March 3, 1997, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (268285) to (268288).

#### Cross References

This section cited in 55 Pa. Code § 140.221 (relating to conditions of eligibility); and 55 Pa. Code § 175.74 (relating to procedures).



**ELIGIBILITY PROVISIONS FOR MA FOR  
MEDICALLY NEEDY ONLY**

**§ 141.81. Eligibility policy for Medically Needy Only.**

(a) *Conditions of eligibility.*

(1) To be eligible for MNO-MA, the person shall comply with the following:

(i) Meet financial and nonfinancial eligibility standards established by the Department and approved by the Governor and the appropriate conditions of eligibility set forth in the following chapters or sections:

- (A) Chapter 147 (relating to residence).
- (B) Chapter 149 (relating to citizenship and alienage).
- (C) Chapter 161 (relating to persons in institutions).
- (D) Chapters 177—179 and 181.
- (E) Chapter 183 (relating to income).
- (F) Section 175.84 (relating to procedures).
- (G) Section 175.73(b) (relating to requirements).

(2) To be eligible for MA, the person shall supply evidence, as required, of the following factors:

- (i) Chapter 145 (relating to age).
- (ii) Dependent children (subsection (c)(3)(ii)).
- (iii) Blind (subsection (c)(3)(iii)).
- (iv) Permanent and total disability (subsection (c)(3)(iv)).

(3) To be eligible for MA, the person shall provide other information as is requested by the Department (subsection (b)).

(4) To be eligible for MA, the person shall sign forms.

(5) Chapter 183 (relating to income).

(6) Section 175.84 (relating to procedures).

(7) Section 175.73(b) (relating to requirements).

(8) Supply evidence, as required, of the factors peculiar to the following categories:

- (i) Chapter 145 (relating to age).
- (ii) Dependent children (subsection (c)(2)(ii)).
- (iii) Blind (subsection (c)(2)(iii)).
- (iv) Permanent and total disability (subsection (c)).

(9) Provide other information as is requested by the Department (subsection (b)).

(10) Sign forms.

(b) *Social Security number.* Applicants for or recipients of Medical Assistance will not be required to obtain a Social Security number. However, each client, other than those eligible for TD, will be requested to sign a consent form permitting the County Office to obtain a Social Security number for the individual.

(c) *Other eligibility conditions and categories.* Other eligibility conditions and categories are as follows:

(1) Federal participation in MA for the medically needy is limited to persons who meet certain definitive conditions. Therefore, as a condition of eligibility for MA, the client or person acting in his behalf must provide sufficient information about factors such as age, condition of the parent, visual acuity and disability, to permit a determination of the category of MA to which MA payments for his care can be assigned.

(2) Federal participation in MA for the medically needy is also limited, within the range of covered services, to payment for those services for which another resource for payment does not exist. Therefore, as a condition of eligibility for MA, the client or person acting in his behalf must provide sufficient information about potential medical resources such as health insurances, accident and indemnity coverages, and eligible status in other government programs, having medical benefits available to the client. This will permit payment responsibility for medical services rendered to recipients to be assigned to liable third party medical resources.

(3) The categories of MA and the eligibility conditions for them are set forth as follows. A decision that the client does not meet the definitive conditions for old age, dependent children, blind or permanent and total disability must be supported in the case record.

(i) *Old Age Category (TA).* This includes persons 65 years or older. A person shall meet the age requirement for the category on the first day of the month in which he has his 65th birthday.

(ii) *Dependent Child Category (TC).* A parent will be considered incapacitated during the period institutional medical care, hospital-home care or nursing services in the home are received. The suffix "E" will be added to the category symbols, such as TCE, to identify migrant worker applicant groups with children who are eligible for emergency MA services. This category applies to the following:

(A) Persons under 21 regardless of school attendance, marital status, or emancipation. A person shall meet the age requirement through the end of the month in which the 21st birthday occurs provided that the birthday falls on or after the third day of the month.

(B) Specified relatives as defined in § 151.42 (relating to definitions) age 21 or over who are living with a dependent child receiving MA. This includes the specified relatives of a child who is receiving SSI. For MA purposes, a dependent child is a child under 21 years of age, regardless of school attendance, with whom the relative is living, and who is deprived of parental support by reason of the death, continued absence, or physical or mental incapacity of a parent, or by the unemployment of the principal wage earner. Reference should be made to § 153.44(d) (relating to procedures) for procedures relating to the unemployed principal wage earner, for

determining whether a parent is considered to be in that category. Determine conditions apply except that the unemployed principal wage earner is not required, as a condition of eligibility for MA, to register for work related training or employment.

(iii) *Blind Category (TB)*. This category applies to a person 21 years or older but under 65 who meets any of the following criteria:

- (A) A recipient of SBP.
- (B) Has both eyes missing.
- (C) Pregnant women.

(iv) *Permanent and total disability category (TJ)*. This category applies to a person 18 years of age or older but under 65 who is permanently and totally disabled, a person with a disability who is receiving Social Security disability benefits who has been referred to the SSA for a determination of eligibility for SSI disability benefits or a person under review for a disability by the Department based upon Social Security disability criteria. For MA purposes, a person will be considered permanently and totally disabled under the following circumstances:

(A) A person currently eligible for Social Security disability benefits as a disabled person. No further evaluation will be needed nor must the Review Team rule on the matter. However, substantiation that the person is currently eligible for Social Security benefits as a disabled person will be required.

(B) A person determined to be permanently and totally disabled on the basis of medical and social findings as specified in subsection (e)(4)(i).

(C) A disabled person who is a former applicant or recipient whose Disability Certification is still valid as specified in § 133.84(b) (relating to MA redetermining eligibility procedures).

(D) A person in a State school and hospital for the mentally retarded determined to need skilled nursing care or intermediate care as specified in subsection (e). The review team rules on permanent and total disability and makes the final decision on eligibility for skilled nursing or intermediate care.

(v) *General Category (TD)*. Category TD will be treated as follows:

(A) This category is financed by Commonwealth funds only. It applies to persons who do not meet the conditions for the Federally-aided categories of MA (TA, TC, TB, TD (migrants or refugees), TU or TJ) and meet one of the following conditions:

- (I) A custodial parent of a dependent child under 21 years of age.
- (II) A person 59 years of age or older.
- (III) A person who verifies employment of at least 100 hours per month earning at least the minimum wage. For persons whose eligibility is based upon the work requirement, past, present and continuing employment will be evaluated to determine compliance with the 100

hours per month requirement. If an episode of illness or injury is the reason for the interruption of work and it is verified that 100 hours per month employment will resume subsequent to recovery from that illness or injury, the applicant will be considered to have met the work requirement.

(B) The suffix “E” will be added to the category symbols, that is, TDE, to identify migrant workers eligible for emergency MA services.

(d) *Eligibility conditions for disabled persons.* Eligibility conditions for disabled persons will conform with the following:

(1) *General.* A disabled person eligible in all other respects will receive Medical Assistance (Category Symbol TJ) if he meets the conditions set forth in this subsection.

(2) *Permanent and total disability.* A person is “permanently and totally disabled” if he has a disability which meets the conditions as specified in this section.

(i) *Permanent disability.* The elements of permanent disability are as follows:

(A) “Permanent disability” means a physical or mental impairment that is substantiated by a medical diagnosis and which is not likely to improve or which will continue the lifetime of the individual.

(B) “Blindness” exists if central visual acuity with best correcting lens is 20/200 or poorer in the better eye.

(C) Alcoholism and drug addiction, like other anatomical, physiological or psychological abnormalities which meet the criteria set forth in this paragraph are permanent disabilities.

(ii) *Total disability.* The elements of total disability are as follows:

(A) “Total disability” means inability to engage in substantial gainful activity that exists in the community.

(B) “Substantial gainful activity” is work of a nature generally performed for remuneration or profit, involving the performance of significant physical or mental duties, or a combination of both.

(e) *Determination of permanent and total disability.* The determination of permanent and total disability will be in accordance with the following:

(1) No further finding of disability will be necessary for a person in a State school and hospital for the mentally retarded for whom the need for skilled nursing care or intermediate care has been determined.

(2) The review team will rule on total and permanent disability and will make the final decision regarding eligibility for skilled nursing or intermediate care.

(3) A determination by the Social Security Administration that an SSI recipient’s degree of disability has changed so that he is no longer eligible for SSI disability is sufficient evidence that the person does not meet the definitive



conditions described in subsection (c)(1)(i). A determination by the county review team will not be needed.

(4) For other persons age 18 or 65 who appear to be permanently and totally disabled, and whose income precludes referral to SSI, a determination will be made on the basis of medical and social findings as specified in subsection (d)(2)(i) and (ii).

(i) *Medical and social findings.* Both medical and social findings are needed for a decision on permanent and total disability. The necessary information is obtained as follows:

(A) *Medical findings.* Medical findings must include a substantiated diagnosis of an existing permanent impairment. Medical findings may be used in reaching a decision on permanent and total disability as long as it includes a substantiated diagnosis showing that a permanent impairment exists. The medical findings may consist of existing medical records including documented evidence such as institutional or school reports and psychologist's reports. To obtain medical information on individuals who have applied for benefits under the Occupations Disease Act from the Bureau of Workmen's Compensation, a request including the client's name, address and Social Security Number and if available, the name and address of the employer in whose employment the disease occurred, should be sent to the Central Location and Resources Unit of the Bureau of Claim Settlement, DHS, Harrisburg, Pennsylvania 17120. Medical information for a person who has applied for benefits under the Occupational Disease Act from the Bureau of Vocational Rehabilitation. If the existing medical findings do not seem to be adequate for disability purposes a medical examination will be required. A Report of Medical Examination, PA 41, will be obtained.

(B) *Social findings.* Form MA 62 provides a comprehensive written report of the social findings necessary for a determination of total disability. This form will be required for every determination.

(ii) *Decision on permanent and total disability and certification.* Decisions on permanent and total disability and certification will be made in accordance with the following:

(A) The decision on permanent and total disability will be made by a Review Team composed of the County Medical Consultant and a designated and qualified member of the Income Maintenance staff. The Income Maintenance staff member must be experienced and skilled in evaluating the limiting effects of physical, emotional, or mental impairments.

(B) The Review Team will certify as to the client's disability on the Form MA 62 and will include recommendations for treatment, training, or other rehabilitative services and any requests for information needed at a later date.

(f) *Submission of information to regional office.* Submission of information to Regional Office will be in accordance with the following:

(1) In County Offices without a Medical Consultant, the Regional Office will arrange for another County Office to make the decision until a Medical Consultant is obtained.

(2) When the medical findings are obtained, the County Office will stamp the date of receipt on the reverse of the document and send the following forms to the Regional Office, accomplishing the following:

(i) Attach a transmittal memo to the material. The memo indicates whether initial determination or redetermination lists all applicable attachments, and may include remarks that are pertinent.

(ii) Material clearly indicates the category. If there is more than one case of the same category in the assistance unit, the appropriate suffix will be included, such as TJ2.

(iii) Reports and forms will be separated in the groupings shown in paragraph (2)(iii) and assembled in the order indicated. Material in each group should be in chronological order with the earliest report or form on top.

(A) Medical Information, which includes the Form PA 41 if one is obtained; and, if applicable, a Form PA 60-P, and physician's or specialist's and hospital reports which may be in narrative form.

(B) Form MA 62.

(3) If the Reviewing County Office needs additional medical or social information to make a decision, the Form MA 215 will be used to notify the Regional Office of the information needed, the date required, and the like. The Regional Office will send the new medical or social findings, or both, to the Reviewing County Office along with Reports of Medical Findings and Social Information previously submitted. If the requested information cannot be obtained, the Regional Office will inform the Reviewing County Office by memorandum of this fact and the reasons. The Reviewing Office will then notify the Regional Office whether other information may be substituted. If the required information is not obtainable, the Reviewing Office will advise that no decision regarding permanent and total disability can be made because of insufficient information.

(g) *Period when eligibility begins.* The eligibility period will begin in accordance with the following:

(1) *Initial application.* Eligibility for MA services will begin with the service provided during the 90-day period preceding the date of application for Medical Assistance, if the applicant was eligible for the service during that period.

(2) *After initial application.* Eligibility for MA services will begin with the date the service starts, if the person meets the appropriate eligibility conditions. Eligibility will end on the date the individual or family no longer meets the eligibility conditions.

(h) *Conditionally eligible applicants.*

(1) If the applicant is unconditionally eligible (no available excess assets) or conditionally eligible (the applicant has excess assets that, in the judgment of the County Assistance Office, would be insufficient to meet all of the expected costs of the service), a Form PA 162 will be sent to the vendor.

(2) If the applicant has been found conditionally eligible, a contact must be made with the hospital to obtain the amount of the cost of care. If the cost of care is in excess of the individual's assets, the Form PA 5-C card is issued. If the individual's assets exceed the cost of the service, a determination of ineligibility is made and a Form PA 162 must be sent to the individual and vendor. In this instance a new application is required at the next request for service.

#### Source

The provisions of this § 141.81 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; amended July 7, 1978, effective August 7, 1978, 8 Pa.B. 1954; amended February 22, 1980, effective March 1, 1980, 10 Pa.B. 850; amended November 13, 1981, effective November 14, 1981, 11 Pa.B. 4045; amended December 25, 1981, effective December 26, 1981, 11 Pa.B. 4444; amended July 28, 2000, the provisions under Act 49 effective retroactive to September 1, 1994, provisions under Act 35 effective retroactive to June 17, 1996, 30 Pa.B. 3779. Immediately preceding text appears at serial pages (209168) to (209170), (220867) to (220868) and (266103) to (266104).

#### Notes of Decisions

55 Pa. Code § 141.81(g)(1) (relating to policy) is reasonable and is clear and unambiguous, and an exception to its application is not warranted even though a private insurance carrier alters its stated coverage after tentatively agreeing to cover the expenses, since the insurance carrier gave notice of its revised coverage before the end of the 90 day period. *Berry v. Department of Public Welfare*, 401 A.2d 602 (Pa. Cmwlth. 1979).

#### Cross References

This section cited in 55 Pa. Code § 141.71 (relating to policy); 55 Pa. Code § 145.83 (relating to requirements); and 55 Pa. Code § 289.4 (relating to procedures).

### APPENDIX A. [Reserved]

#### Source

The provisions of this Appendix A adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; reserved July 11, 1986, effective July 12, 1986, 16 Pa.B. 2524. Immediately preceding text appears at serial page (93963).

[Next page is 142-1.]

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