

## PART IV. ADULT SERVICES MANUAL

Subpart	Chap.
A. GENERAL PROVISIONS .....	[Reserved]
B. ELIGIBILITY FOR SERVICES .....	2050
C. ADMINISTRATION AND FISCAL MANAGEMENT .....	[Reserved]
D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES .....	2380
E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES .....	2600

### Subpart A. GENERAL PROVISIONS [Reserved]

### Subpart B. ELIGIBILITY FOR SERVICES

Chap.	Sec.
2050. ELIGIBILITY FOR SERVICES FUNDED THROUGH THE ADULT SERVICES BLOCK GRANT .....	2050.1
2060. ELIGIBILITY FOR REFUGEE AND CUBAN/HAITIAN SOCIAL SERVICES .....	2060.1
2070. ELIGIBILITY FOR SERVICES FUNDED THROUGH THE PUBLIC ASSISTANCE TRANSPORTATION BLOCK GRANT .....	2070.1

## CHAPTER 2050. ELIGIBILITY FOR SERVICES FUNDED THROUGH THE ADULT SERVICES BLOCK GRANT

### GENERAL PROVISIONS

Sec.	
2050.1.	Purpose.
2050.2.	Applicability.
2050.3.	Definitions.
2050.4.	Legal base.

### GENERAL REQUIREMENTS

2050.11.	Reimbursement for expenditures.
2050.12.	Nondiscrimination.
2050.13.	Designated forms.
2050.14.	Client files.
2050.15.	Information and referral logs.
2050.16.	Record retention and disposition.
2050.17.	Confidentiality.
2050.18.	Additional conditions prohibited.

2050-1

**ELIGIBILITY REQUIREMENTS FOR ADULT SERVICES**

- 2050.21. General eligibility criteria.
- 2050.22. Financial eligibility criteria.
- 2050.23. County residence.
- 2050.24. Categories of need for homemaker service.
- 2050.25. Conditions of need for home delivered meals service.
- 2050.26. Conditions of need for protective service.
- 2050.27. Service to residents of institutions.
- 2050.28. Grandfathering provision.

**ELIGIBILITY DETERMINATION**

- 2050.31. Responsibility and authority for eligibility determinations and redeterminations.
- 2050.32. Right to apply for service.
- 2050.33. Basic requirements.
- 2050.34. Validity of eligibility information provided by applicants or clients.
- 2050.35. Determination for services provided without regard to income.
- 2050.36. Redeterminations of eligibility.
- 2050.37. Waiting lists for adult services not immediately available.
- 2050.38. Reduction or termination of service to clients.

**REQUIREMENTS FOR NOTIFICATION OF APPLICANTS OR CLIENTS**

- 2050.51. General requirements.
- 2050.52. Appeals and fair hearings for applicants and clients.

**DECLARED STATE OF DISASTER**

- 2050.61. Eligibility.

**FAMILY MONTHLY GROSS INCOME**

- 2050.71. Sources.
- 2050.72. Income exclusions.
- 2050.73. Medical expense exclusion.

**Authority**

The provisions of this Chapter 2050 issued under Articles II and IV of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)), unless otherwise noted.

**Source**

The provisions of this Chapter 2050 adopted November 2, 1984, effective November 3, 1984, and will apply to Fiscal Year 1984/85 and each fiscal year thereafter, 14 Pa.B. 3964, unless otherwise noted.

**2050-2**

**Cross References**

This chapter cited in 55 Pa. Code § 2060.10 (relating to determining and redetermining general eligibility); 55 Pa. Code § 2060.12 (relating to notification requirements); 55 Pa. Code § 2060.13 (relating to requirements for provision of service at an appropriate later date); and 55 Pa. Code § 2060.14 (relating to Departmental appeal and hearing request).

**GENERAL PROVISIONS****§ 2050.1. Purpose.**

This chapter establishes the requirements for determining eligibility for services funded through the Adult Services Block Grant.

**§ 2050.2. Applicability.**

This chapter applies to persons applying for or receiving adult services and governs counties and providers receiving Adult Services Block Grant funds.

**§ 2050.3. Definitions.**

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

*Adult*—A person who is at least 18 years of age and under the age of 60, or a person under 18 years of age who is head of an independent household.

*Adult day care service*—Provides a program of activities within a licensed, protective, nonresidential setting to four or more enrolled adults who are not capable of full time independent living.

*Adult placement service*—Provides for the placement of dependent adults, who require personal care, in sheltered residential settings, other than their own homes or with relatives, if the primary mode of care is social rather than medical. Maintenance costs, including the cost of room and board, are not covered under this service.

*Adult services*—The following services funded through the Adult Services Block Grant: adult day care, adult placement, chore, counseling, employment, home-delivered meals, homemaker, housing, information and referral, life skills education, protective, service planning/case management and transportation.

*Adult Services Block Grant (ASBG)*—A grant of Federal and State money which provides funding to county governments in this Commonwealth for the provision of adult services to low-income adults.

*Applicant*—A person who requests adult services for himself or for whom adult services are requested.

*Child*—A person under the age of 18 who is not the head of an independent household.

*Chore service*—Provides for the performance of unskilled or semi-skilled home maintenance tasks, normally done by family members, and needed to

enable a person to remain in his own home, if the person is unable to perform the tasks himself and if there is no other responsible person available or capable of providing the service. The service includes buying necessary materials. The service is provided to maintain the person's health and safety in the home, not for purely aesthetic improvements to the home or yard. The term does not include major housing repairs such as house rewiring, extensive painting, or activities specifically covered by other services such as homemaker services. Specific activities provided vary according to individual needs and are described in the person's written service plan.

*Client*—A person who has been determined eligible for and is receiving adult services.

*Counseling service*—Nonmedical, supportive or therapeutic activities, based upon a service plan developed with the person, or the person and his family, to assist in problem solving and coping skills, intra- or inter-personal relationships, development and functioning.

*Department*—The Department of Human Services of the Commonwealth.

*Employment service*—Activities to enable persons with special needs, including the mentally disabled, who are not adequately served by existing programs, to gain or retain either paid employment or training leading to paid employment. The service does not include the cost of training, including on-the-job training, except in the case of mentally or physically disabled persons working in a sheltered employment situation. The payment of salaries to clients is not included under the service.

*Family monthly gross income*—The total gross income earned or received by family members during the month.

*Home delivered meals service*—Provides meals, which are prepared in a central location, to homebound individuals in their own homes. Each client is served a minimum of one but no more than two meals daily, up to 7 days a week.

Each meal is well-balanced, nutritious, and attractive and contains at least 1/3 of the current daily recommended allowances as established by the National Academy of Sciences—National Research Council.

*Homemaker service*—Activities provided in the person's own home by a trained, supervised homemaker if there is no family member or other responsible person available and willing to provide the services or to provide occasional relief to the person regularly providing the service. The term includes instructional care if the person is functionally capable but lacks the knowledge, and home help and nonmedical personal care if the individual is functionally unable to perform life-essential tasks of daily living.

*Housing service*—Activities to enable persons to obtain and retain adequate housing. The cost of room and board is not covered.

*Information and referral service*—The direct provision of information about social and other human services, to all persons requesting it, before intake pro-

cedures are initiated. The term also includes referrals to other community resources and follow-up, as appropriate. The service may be provided only by agencies with a defined responsibility and staff identified for providing the service. The term does not include provision of information through the mass media or general public information methods except for the costs of advertising for the service itself.

*Life skills education service*—Provides to persons the practical education and training in skills needed to perform safely the activities of daily living. The service is provided in formal classes, in informal classes, or, if needed and indicated by an individual's written service plan, in his own home or community. The term does not include job readiness training, instruction in a language, or remedial education directed toward the attainment of a high school diploma.

*Medical services eligibility card*—The identification card issued by the Department to persons eligible for medical benefits under the following assistance programs available in this Commonwealth: Categorically Needy Program (cash assistance, non-money payment, SSI); Blind Pension Program; and Medically Needy Program.

*Protective service*—A system of social service intervention activities to assist eligible persons in a crisis situation. The term includes social service activities necessary to remove the person from the dangerous situation as detailed in the written service plan. The term may also include the provision to the client, for no more than 30 days in a 6-month period, emergency shelter or housing in the form of room and board; transportation services; and if other resources, including Titles XVIII and XIX of the Social Security Act (42 U.S.C.A. §§ 1395—1395xx and 1396—1396p) are not available, emergency health services and financial aid only if the client is any of the following:

- (i) In imminent danger of death or physical injury.
- (ii) Abandoned or abused.
- (iii) Acutely incapacitated mentally or physically.

*Provider*—A public agency, private organization, or individual who has been designated by the county commissioners or county executive to provide adult services or to determine and redetermine the eligibility of persons for adult services.

*Service planning/case management*—Is a series of coordinative staff activities to determine with the client what services are needed and to coordinate their timely provision by the provider and other resources in the community.

*Transportation service*—Activities which enable individuals to travel to and from community facilities to receive social and medical service, or otherwise promote independent living. The service is provided only if there is no other appropriate person or resource available to transport the individual.

#### § 2050.4. Legal base.

The legal base for this chapter is:

2050-5

- (1) Articles II and IV of the Public Welfare Code (62 P. S. §§ 201—211 and 401—493).
- (2) Social Services Block Grant Act of 1981 (42 U.S.C.A. §§ 1397—1397f).

### GENERAL REQUIREMENTS

#### § 2050.11. Reimbursement for expenditures.

Expenditures made by a county on behalf of a client will be reimbursed by the Department only if eligibility has been determined in accordance with this chapter. Eligibility determinations and redeterminations are subject to review and audit by Departmental fiscal and program staff.

#### § 2050.12. Nondiscrimination.

Applicants or clients may not be discriminated against on the basis of race, color, religious creed, handicap, ancestry, national origin, age or sex.

#### § 2050.13. Designated forms.

Actions taken under this chapter shall be on forms designated or approved by the Department.

#### § 2050.14. Client files.

For each client except those receiving information and referral service only, providers shall establish and maintain a separate client file consisting of both of the following:

- (1) A description of the client's need for service; the particular service or services provided; and pertinent facts, dates and identifying data.
- (2) Documents pertaining to the determination and redetermination of eligibility, including copies of written notice forms and correspondence, and other documents concerning actions, proposed actions or service requests.

#### § 2050.15. Information and referral logs.

Providers of information and referral service shall keep a log, listing the number of information and referral contacts made, the nature of each request, the agency to which the person was referred, and whether the person was accepted for service by the agency.

#### § 2050.16. Record retention and disposition.

(a) Providers shall retain all client files; rejected application forms; information and referral logs; and books, records, and other fiscal and administrative documents pertaining to expenditures which are reimbursed through the Adult Services Block Grant for one of the following time periods, whichever occurs last:

(1) For a period of 4 years from the end of the fiscal year in which all adult services activities are terminated.

(2) Until the completion of an audit for compliance with adult services requirements which audit was begun, but not completed, at the end of the 4-year period specified in paragraph (1).

(3) Until audit findings not resolved at the end of the 4-year period specified in paragraph (1) have been resolved.

(b) A county may require its providers to comply with both of the following paragraphs:

(1) Transfer to the adult services administering agency designated by the county of all client records, rejected application forms, and information and referral logs if either of the following subparagraphs apply:

(i) The client is no longer receiving the adult service furnished by the provider.

(ii) The agency, organization or individual is no longer providing adult services.

(2) Upon meeting the requirements in subsection (a), contact the county in writing before destroying client records, rejected application forms, and information and referral logs.

#### **§ 2050.17. Confidentiality.**

(a) Counties and their designated providers shall safeguard the use and disclosure of information on applicants and clients.

(b) Providers shall permit access to, and allow the use and disclosure of information on applicants and clients to: Federal authorities, the Commonwealth, the Department, the county commissioners or county executive, or their authorized agents if the information is necessary to carry out their required functions. Disclosure beyond this scope requires the client's informed and written consent.

(c) Providers shall make available to a client or an authorized representative the contents of the client's case records under Chapter 105 (relating to safeguarding information).

#### **§ 2050.18. Additional conditions prohibited.**

Counties or their providers may not impose additional eligibility conditions—including priorities, categories of need, or fees—other than those listed in this chapter; nor may they impose, as a condition of eligibility, acceptance of a particular service or combination of services.

### **ELIGIBILITY REQUIREMENTS FOR ADULT SERVICES**

#### **§ 2050.21. General eligibility criteria.**

To receive a particular adult service, a person must comply with all of the following:

2050-7

- (1) Meet § 2050.22 (relating to financial eligibility criteria) except for information and referral service and protective service, which are provided without regard to income.
- (2) Be an adult.
- (3) Be a resident of the county in which service is requested.
- (4) Be requesting a service which is available to residents of the county under the Adult Services Block Grant.
- (5) Be determined to be in need of the particular service requested.
- (6) For homemaker, home delivered meals, and protective services, meet the categories or conditions of need which are specified as eligibility requirements for those services.

#### **Cross References**

This section cited in 55 Pa. Code § 2050.23 (relating to county residence); 55 Pa. Code § 2050.24 (relating to categories of need for homemaker service); and 55 Pa. Code § 2050.27 (relating to service to residents of institutions).

#### **§ 2050.22. Financial eligibility criteria.**

- (a) Information and referral service and protective service shall be provided without regard to income. It is not necessary for recipients of these services to meet financial eligibility criteria. They must, however, meet the other applicable eligibility criteria.
- (b) Those financially eligible for adult placement, counseling, employment, housing, life skills education, and service planning/case management services are either of the following:
  - (1) Cardholders and other persons whose names are listed on a valid medical services eligibility card.
  - (2) Persons, other than those described in paragraph (1) whose family monthly gross income does not exceed 125% of the Federal Poverty Income Guidelines which have been adopted by the Department and are available upon request.
- (c) Those financially eligible for adult day care, chore, home-delivered meals, homemaker, and transportation services are either of the following:
  - (1) Cardholders and other persons whose names are listed on a valid medical services eligibility card.
  - (2) Persons, other than those described in paragraph (1) whose family monthly gross income does not exceed 250% of the Federal poverty income guidelines which have been adopted by the Department and are available upon request. Counties may elect either of the following:
    - (i) To provide free service to persons whose family monthly gross income does not exceed 250% of the Federal Poverty Income Guidelines.
    - (ii) To provide free service to persons whose family monthly gross income does not exceed 125% of the Federal Poverty Income Guidelines,

and to charge fees, which are based upon a Departmentally approved fee schedule, to persons whose family monthly gross income exceeds 125% but does not exceed 250% of the Federal Poverty Income Guidelines.

(d) Family composition.

(1) For purposes of determining family size and family income, the following persons, if they are living in the same household, are included as family members:

(i) A single adult, or an adult and spouse, including those in common law marriage.

(ii) Children for whom the adult or couple is providing care, except children placed in the household for foster care or group care.

(2) Other persons living in the household, whether they are related or unrelated to the adult or couple, will not be counted as family members when determining family size, and will be considered separately for adult services eligibility.

**Cross References**

This section cited in 55 Pa. Code § 2050.21 (relating to general eligibility criteria).

**§ 2050.23. County residence.**

(a) For purposes of satisfying § 2050.21(3) (relating to general eligibility criteria), the following persons are considered county residents:

(1) Persons who declare a place of residence located within the county.

(2) Out-of-State or foreign students who reside in the county while attending an educational or job-training institution in this Commonwealth.

(3) Migrant workers who are seasonally employed or are seeking seasonal employment within the county.

(b) No requirements as to citizenship or length of residence may be imposed as a condition of adult services eligibility.

**§ 2050.24. Categories of need for homemaker service.**

For homemaker service, certain reasons for needing the service, called categories of need, are specified as eligibility requirements. To meet the category of need requirement for homemaker service, as set forth in § 2050.21(6) (relating to general eligibility criteria), a person must need the service for one of the following reasons which are ranked according to priority from highest to lowest:

(1) *Emergency basis personal care or home help.* To receive personal care or home help to alleviate an unsafe or unsanitary condition on an emergency basis:

(i) A situation must exist in which failure to provide the activity would result in the immediate danger of death, neglect, or serious injury.

(ii) The person must be functionally unable to perform life essential tasks of daily living or care for the person's dependents.

(iii) The person must live alone or with other functionally disabled or dependent persons or have no family member or other responsible person available and willing to perform life essential tasks for the person or his dependents.

(2) *Personal care on an ongoing basis.* To receive personal care on an ongoing basis, the person shall:

(i) Be functionally unable to perform life essential tasks of daily living or care for the person's dependents.

(ii) Live alone or with other functionally disabled or dependent persons or have no family member or other responsible person available and willing to perform life essential tasks for the person or his dependents.

(3) *Instructional service.* To receive instructional service, the person must be functionally able to perform, but lack the knowledge to carry out, life essential tasks including basic care in home management, care for dependent members of the household, or self care. Service provided under this paragraph may not ordinarily exceed a period of 9 months.

(4) *Caretaker relief.* To receive caretaker relief, the person shall:

(i) Be functionally unable to perform life essential tasks of daily living or care for dependents.

(ii) Be receiving home care or personal care on a 7-day per week 24-hour basis, from a person whose ability to provide adequate care is decreasing because of constant stress and the lack of personal time. Caretaker relief is limited to a maximum of 309 hours per 12-month period, per household.

(5) *Home help on an ongoing basis.* To receive home help on an ongoing basis, the person shall:

(i) Be functionally unable to perform life essential tasks of daily living or care for the person's dependents.

(ii) Live alone or with other functionally disabled or dependent persons or have no family member or other responsible person available and willing to perform life essential tasks for the person or his dependents.

#### **§ 2050.25. Conditions of need for home delivered meals service.**

Additional reasons for needing home delivered meals service, called conditions of need, are specified as eligibility requirements. To meet the conditions of need requirement for home delivered meals service, a person must need the service for all of the following reasons:

(1) The person is homebound.

(2) The person is permanently or temporarily incapacitated so that the person is unable to prepare meals.

(3) There is no family member or other responsible person available and willing, on an on-going or temporary basis, to prepare meals for the person.

(4) There is no alternative means of providing nutritious meals to the person in the home during the time for which the service is requested.

**§ 2050.26. Conditions of need for protective service.**

Additional reasons for needing protective service, called conditions of need, are specified as eligibility requirements. To meet the conditions of need requirements for protective service, a person must need the service for all of the following reasons:

- (1) The person is physically or mentally impaired.
- (2) The person is unable to protect himself from hazardous situations or the abusive acts of others or carry out the activities of daily living without assistance.
- (3) There is no family member or other responsible person available who is willing and able to assist the person.

**Cross References**

This section cited in 55 Pa. Code § 2050.35 (relating to determination for services provided without regard to income).

**§ 2050.27. Service to residents of institutions.**

A person living in an institution—such as one for the mentally ill or mentally retarded, a hospital, a skilled care facility, an intermediate care facility, or a prison—may receive an adult service only if:

- (1) The person meets § 2050.21 (relating to general eligibility criteria).
- (2) The service to be provided is:
  - (i) Also available to residents of the surrounding community.
  - (ii) Not provided by institutional staff.
  - (iii) Not an activity for which the institution is legally responsible.

**§ 2050.28. Grandfathering provision.**

A client who is receiving adult services on July 1, 1984, remains eligible through the client's next regularly scheduled eligibility redetermination. At that time, continued eligibility shall depend upon the client's meeting the appropriate eligibility criteria.

**ELIGIBILITY DETERMINATION****§ 2050.31. Responsibility and authority for eligibility determinations and redeterminations.**

Counties are responsible for determining and redetermining the eligibility of applicants. While counties remain responsible, they may delegate the authority for determining and redetermining eligibility to providers by means of contract, grant, or other written agreement. Counties receiving Adult Services Block Grant funds will be held fiscally liable by the Department for failure in performing determinations and redeterminations of eligibility in accordance with this chapter.

**§ 2050.32. Right to apply for service.**

A person has the right to apply for an adult service. The provider shall perform an eligibility determination for each applicant.

**§ 2050.33. Basic requirements.**

Counties, or providers designated by the counties, shall structure the eligibility determination process to meet the following basic requirements:

- (1) Eligibility shall be determined for an applicant within 15 days of the service request.
- (2) The provider shall complete a Departmentally approved adult services application form from the information given by the applicant.
- (3) An adult service may not be provided until:
  - (i) The adult services application form has been signed and dated by the applicant.
  - (ii) The applicant has been determined eligible for the adult service requested.
- (4) The provider shall advise the applicant that:
  - (i) The applicant has the right to have eligibility determined within 15 days of the request for the adult service.
  - (ii) The applicant has the right to be notified of eligibility and service decisions.
  - (iii) The applicant has the right to appeal and request a Departmental fair hearing.
  - (iv) The applicant's signature upon the Adult Services Application Form makes the applicant legally responsible, under penalty of law, for the truthfulness, accuracy, and completeness of information provided to determine or redetermine eligibility.
  - (v) The applicant, under penalty of law, shall report subsequent changes in circumstances which might affect eligibility, including, but not limited to address, income, or medical services eligibility card status.
  - (vi) The applicant shall provide documentation of eligibility-related items, when requested, as a condition for receiving, and continuing to remain eligible for adult services.
- (5) Providers shall make appropriate arrangements, including but not limited to the use of interpreters if necessary, to communicate with non-English speaking or hearing-impaired applicants and clients.

**§ 2050.34. Validity of eligibility information provided by applicants or clients.**

(a) The provider shall accept the information provided orally by an applicant or client for determination or redetermination of eligibility unless the provider has cause to doubt the validity of the information.

(b) The provider may require an applicant or client to document eligibility information if the provider has cause to doubt the validity of this information.

(c) The provider shall withhold or terminate from service immediately an applicant or client who does one of the following:

- (1) Refuses to provide the documentation requested.
- (2) Is found to be ineligible on the basis of the documented information.

**§ 2050.35. Determination for services provided without regard to income.**

(a) *Information and referral service.* A written application is not required for clients receiving information and referral service.

(b) *Protective service.* Although protective service is provided without regard to income, a Departmentally approved adult services application form is required for protective service clients. The provider shall make appropriate entries upon the form and within the client's records:

- (1) To indicate that the financial eligibility requirement does not apply.
- (2) To document the client's need for service, including information to show that the client has met the condition of need requirement set forth in § 2050.26 (relating to conditions of need for protective service).

**§ 2050.36. Redeterminations of eligibility.**

Counties shall establish eligibility redetermination control procedures to ensure that the following requirements are met:

- (1) Eligibility for clients who are either current recipients of SSI or whose family monthly gross income is derived solely from Social Security or disability benefits, pensions, or benefits paid to survivors shall be redetermined every 12 months.
- (2) Eligibility shall be redetermined every 6 months for clients who are any of the following:
  - (i) Medical services eligibility cardholders.
  - (ii) Family monthly gross income eligibles.
  - (iii) Protective service recipients without regard to income.
- (3) Redeterminations shall be completed on a timely basis.
- (4) Providers shall notify, in writing, clients found ineligible at redetermination.

**§ 2050.37. Waiting lists for adult services not immediately available.**

Counties shall establish and enforce a written waiting list procedure for applicants who are determined eligible for an adult service which is not immediately available. Counties shall ensure that this procedure:

- (1) Affords eligible applicants equal access to adult services.
- (2) Requires immediate service when a delay in service may be life threatening.

- (3) Requires that, for adult day care, chore, home-delivered meals, homemaker, and transportation services, a priority for service be given to applicants:
  - (i) Whose names are listed on valid medical services eligibility cards.
  - (ii) Whose family monthly gross incomes do not exceed 125% of the Federal Poverty Income Guidelines.
- (4) Ensures that the ranking of applicants for homemaker service is made subject to the priorities established within the categories of need for the service.
- (5) Requires that waiting lists are maintained accurately and are up-to-date.
- (6) Is used by every provider in the county.
- (7) Is explained to clients affected by this procedure.

#### Cross References

This section cited in 55 Pa. Code § 2050.38 (relating to reduction or termination of service to clients).

### § 2050.38. Reduction or termination of service to clients.

(a) *Reductions and terminations based upon the provider's professional judgement.*

(1) A provider shall reduce or terminate service to clients when, in the provider's professional judgement, one of the following occurs:

- (i) The client no longer needs the service or level of service currently being provided.
- (ii) The client's uncooperative behavior or misuse of the service warrants termination.

(2) Reductions and terminations based upon the provider's professional judgement shall be justified, in writing, in the client file.

(b) *Reductions and terminations made necessary by reason of insufficient resources.*

(1) If, by reason of insufficient resources, it becomes necessary to reduce expenditures for a service, the county shall decide the degree or extent to which service will be reduced or terminated for clients who are currently receiving service.

(2) If, by reason of insufficient resources, a county decides to reduce or terminate service to clients currently receiving service, the county shall:

- (i) Ensure that service to applicants or clients in life threatening situations will continue to be available.
- (ii) Maintain services which the county considers to be of the highest priority at the maximum reasonable level.

(iii) Require that, for adult day care, chore, home delivered meals, homemaker, and transportation services, a priority for maintaining services be given to clients:

- (A) Whose names are listed on valid medical services eligibility cards.

- (B) Whose family monthly gross incomes do not exceed 125% of the Federal Poverty Income Guidelines.
- (iv) Ensure that reductions or terminations from homemaker service are made subject to the priorities established within the categories of need for the service.
- (v) Ensure that reductions or terminations are made without discrimination to clients because of race, color, religious creed, handicap, ancestry, national origin, age, or sex.
- (vi) Instruct the provider, in writing, regarding the degree or extent to which the provider must reduce or terminate clients from a service.
- (3) The county shall ensure that clients who have been terminated from service by reason of insufficient resources are:
  - (i) Appropriately referred for service elsewhere, if possible.
  - (ii) Placed on the county's adult services waiting list for the service under § 2050.37 (relating to waiting lists for adult services not immediately available).
- (4) Providers shall not, except upon written instruction from the county, reduce or terminate service to clients for reason of insufficient resources.

#### **REQUIREMENTS FOR NOTIFICATION OF APPLICANTS OR CLIENTS**

##### **§ 2050.51. General requirements.**

- (a) Providers shall notify each applicant or client of an eligibility determination or redetermination within 10 days of the date the provider makes the decision.
- (b) Providers may notify an applicant or client either orally or in writing of an eligibility determination or redetermination which is favorable to the applicant or client.
- (c) Providers shall, by means of a Departmentally approved written notice form, notify each applicant or client of a determination or redetermination resulting in a denial, reduction, or termination of service. The notification may be made orally if the requested service is either provided or continued without interruption through another funding source or if the applicant or client agrees with the denial, reduction, or termination.
- (d) If a written notice is required, providers shall complete an original and three copies of all applicable portions of the written notice form, including:
  - (1) A clear statement of the decision and the effective date.
  - (2) A full statement of the reasons for the decision.
  - (3) A citation and brief explanation of the regulation used as the basis for the decision.
  - (4) Pertinent information concerning the applicant's or client's right to appeal and request a Departmental fair hearing.

- (e) Following the preparation of a written notice form, the provider shall:
  - (1) Promptly mail or hand-deliver the original and two copies to the applicant or client.
  - (2) Retain the final copy in either the client's file or in a rejected application file, as appropriate.
- (f) A county may require its providers to do one of the following:
  - (1) Prepare and submit to the county for approval and mailing all written notices to applicants and clients.
  - (2) Submit to the county an "information only" copy of written notices prepared by the provider.
- (g) Providers shall forward a request for a fair hearing to the Department's Office of Hearings and Appeals within 72 hours of its receipt.

**§ 2050.52. Appeals and fair hearings for applicants and clients.**

- (a) Except as provided otherwise in this chapter, Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) applies to the provision of adult services; it may not be replaced by an internal hearing procedure established by a county or provider.
- (b) To retain the right to appeal and request a Departmental fair hearing, applicants and clients are bound by the following requirements:
  - (1) If an applicant is found to be ineligible for the particular adult service requested, the applicant retains the right to request a Departmental fair hearing only if the hearing request is postmarked no later than 30 days following the date the written notice is mailed or hand-delivered to the applicant.
  - (2) The effective date of a reduction or termination from service for a client found to be ineligible for the particular service or level of service will be the 15th day following the date the written notice is mailed or hand delivered to the client.
  - (3) If a client found to be ineligible elects to appeal a reduction or termination from service:
    - (i) Service to the client may not be reduced or terminated pending the outcome of the hearing if the hearing request is postmarked no later than the 10th day following the date the notice is mailed or hand delivered to the client.
    - (ii) Service will be reduced or terminated as scheduled if the hearing request is postmarked after the 10th day and no later than the 30th day following the date the written notice is mailed or hand delivered to the client, but the client retains the right to request a fair hearing.
  - (4) A client found to be ineligible for the service or level of service requested relinquishes the right to request a fair hearing if the hearing request is postmarked after the 30th day following the date the written notice is mailed or hand delivered to the client.

(5) If the date for action specified in paragraphs (1)—(4) falls on a week-end or State holiday, the action shall be taken on the next working day.

(c) Providers shall immediately reinstate the client to the status held before the adverse action was taken if notified to do so by the Office of Hearings and Appeals.

(d) An applicant or client does not have the right to appeal simply on the basis that:

(1) A change in State or Federal law or regulation excludes the person from service.

(2) The service requested is not currently available in the county of the person's residence.

### DECLARED STATE OF DISASTER

#### § 2050.61. Eligibility.

A state of disaster exists as of the date on which the Governor declares a specific geographic area to be a disaster area. Those eligible for adult services declared by the Secretary to be essential in dealing with the disaster are:

(1) Persons who normally reside within the declared disaster area and who are affected by the disaster. These persons are eligible to receive service for a period which may not exceed 2 months from the date the disaster was declared.

(2) Other persons physically in a disaster area at the time of the disaster and who are affected by the disaster. These persons are eligible to receive service only for so long as is necessary to relocate them to their normal place of residence and in no case for longer than 30 days from the date that the disaster was declared.

### FAMILY MONTHLY GROSS INCOME

#### § 2050.71. Sources.

Sources of family monthly gross income include but are not limited to:

(1) Money, wages or salary earned by individuals 16 years of age or older before deductions for taxes, Social Security, bonds, pensions, union dues, health insurance, and similar purposes for work performed as an employe including commissions, tips, piece-rate payments, and cash bonuses.

(2) Armed Forces pay which includes base pay plus cash housing and subsistence allowances but does not include the value of rent-free quarters.

(3) Voluntary or court-ordered support received by a present or former spouse.

(4) Net income from self-employment, farm or nonfarm.

(5) Voluntary or court-ordered child support.

(6) Net income from the rental of real property.

(7) Social Security pensions, survivors' benefits, permanent disability insurance payments, and special benefit payments made by the Social Security Administration before deductions of health insurance premiums.

(8) Railroad retirement, disability, and survivors' benefits payments made by the United States Government under the Railroad Retirement Act of 1974 (45 U.S.C.A. §§ 231—231v) before deductions of health insurance premiums.

(9) Private pensions and annuities, including retirement benefits paid to a retired person or his survivors by a former employer or by a union, either directly or through an insurance company.

(10) Government employe pension payments received from retirement pensions paid by Federal, State, county or other governmental agencies to former employes including members of the Armed Forces or their survivors.

(11) Unemployment compensation received from governmental unemployment insurance agencies or private companies during periods of unemployment and strike benefits received from union funds.

(12) Workers' compensation received from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the worker.

(13) Payments made by the Veterans Administration to veterans or their families.

(14) Dividends, including dividends from stockholdings or membership in associations.

(15) Interest on savings or checking accounts and bonds.

(16) Income from estates and trust funds.

(17) Net income from royalties.

(18) Net income from room and board payments.

#### **§ 2050.72. Income exclusions.**

Sources of income not counted in determining family monthly gross income are:

(1) Earnings of a child under 16 years of age.

(2) Voluntary or court-ordered support paid out by the applicant or client, or by a family member to a present or former spouse not residing in the same household.

(3) Voluntary or court-ordered child support paid out by the applicant or client, or by a family member for a child who is not residing in the same household.

(4) Proceeds from the sale of property, such as a house or a car, unless the person was engaged in the business of selling the property, in which case the net proceeds would be counted as income from self-employment.

(5) Withdrawals of bank deposits.

(6) Borrowed money.

(7) Tax refunds or rent rebates from any source.

- (8) Gifts.
- (9) The value of the coupon allotment under the Food Stamp Act of 1977 (7 U.S.C.A. §§ 2011—2026) in excess of the amount paid for the coupons.
- (10) The value of donated foods.
- (11) The value of supplemental food assistance under the Child Nutrition Act of 1966 (42 U.S.C.A. §§ 1771—1785) and the special food service programs for children under the National School Lunch Act (41 U.S.C.A. Chapter 13).
- (12) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs.
- (13) Grants or loans to an undergraduate student for educational purposes.
- (14) Payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C.A. §§ 1415, 2473, 3307, 4601, 4602, 4621—4638, and 4651—4655; 49 U.S.C.A. § 1605).
- (15) Home produce used for household consumption.
- (16) The value of rent-free quarters.
- (17) Foster care payments by a State agency.

**§ 2050.73. Medical expense exclusion.**

- (a) An additional medical expense exclusion will be made for families whose monthly medical expenses which are not reimbursable through medical insurance are expected to total more than 10% of the family monthly gross income.
- (b) That portion of the family's anticipated monthly medical expenses for doctors, hospital care, dental services, health care premiums, and prescription drugs which exceeds 10% of the family monthly gross income after all other sources of income are appropriately included or excluded will be deducted as an additional exclusion.
- (c) Anticipated monthly medical expenses shall be based upon previous or present medical obligations or costs which are expected to continue during the 6-month period following eligibility determination or redetermination.

[Next page is 2060-1.]

2050-20

(247630) No. 288 Nov. 98

*Copyright © 1998 Commonwealth of Pennsylvania*