

**CHAPTER 291. PROTECTIVE AND VENDOR PAYMENTS**

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**PROTECTIVE AND VENDOR PAYMENT PROVISIONS  
FOR AFDC/GA**

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**GENERAL PROVISIONS**

**§ 291.1. [Reserved].**

**PROTECTIVE AND VENDOR PAYMENT PROVISIONS  
FOR AFDC/GA**

**Authority**

The provisions of these §§ 291.21—291.24 issued under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)), unless otherwise noted.

**§ 291.21. Policy.**

The provisions of this chapter, in accordance with requirements of the Social Security Act (42 U.S.C.A. §§ 301—1397f), provide for protective payments for AFDC recipients and vendor payments for AFDC recipients. In addition, protective payments will be made in GA child support cases when the caretaker fails to comply with support requirements of § 153.44 (relating to procedures). Also, vendor payments may be made to public housing authorities for AFDC and GA recipients according to procedures described in this chapter.

**Source**

The provisions of this § 291.21 amended August 27, 1982, effective August 28, 1982, 12 Pa.B. 2853. Immediately preceding text appears at serial page (71900).

**§ 291.22. Definitions.**

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

*Housing authority*—A public housing agency, operated by a local government, established under the laws of this Commonwealth and the United States

Housing Act of 1937 (42 U.S.C.A. §§ 1437—1437q), administered under the authority of the Department of Housing and Urban Development (HUD), with responsibility for administration and operation of a public housing project.

*Housing project*—Public housing units operated by a housing authority under the authority of HUD, for the purpose of providing housing to low-income families and individuals.

*Money management*—Planning and directing the expenditure of money and resources to meet the ongoing needs and obligations of the individual or the family.

*Protective payee*—A responsible adult to whom a protective payment is made. He is not a legally appointed guardian or trustee.

*Protective payment*—The public assistance payment made on behalf of a client to a protective payee. The protective payment may be the full cash grant, or part of the payment may be made to the client and part may be made to the protective payee.

*Vendor*—A person, or a housing authority, which furnishes board, room and board, or shelter.

*Vendor payment*—A public assistance payment which is made to a vendor and may cover one or more semimonthly payment periods, whichever is most appropriate in each case. The vendor payment may be the actual monthly charge for the item provided. The difference between the vendor payment per month and the total monthly allowance is paid to the client.

#### Source

The provisions of this § 291.22 amended August 27, 1982, effective August 28, 1982, 12 Pa.B. 2853. Immediately preceding text appears at serial pages (71900) to (71901).

### § 291.23. Requirements.

(a) *Need for protective or vendor payment.* Need for protective or vendor payment is established in the following circumstances:

- (1) The failure of a person applying for AFDC or GA Assistance on behalf of a child to cooperate in securing child support payments from an absent parent without good cause will result in a protective payment for the child.
- (2) In accordance with Chapter 165 (relating to Employment and Training Program), certain recipients who have failed without good cause to participate in ETP will be provided assistance through a protective payment.

(3) An AFDC client who demonstrates problems in money management which severely affect his welfare or the welfare of the family for whom he is responsible will be provided assistance through a protective or vendor payment.

(4) An AFDC or GA client who owes at least the amount of three months in rental payment to a housing authority which operates the housing project in which the client lives may be provided assistance through a vendor payment determined in accordance with the requirements specified in subsection (e).

(5) An AFDC or GA recipient receives a special allowance for supportive services for child care and the provider is a regulated provider who has signed the Department's vendor payment agreement and who is enrolled in the Department's child care vendor payment system.

(b) *Problems in money management.* Problems in money management which severely affect the welfare of the client or that of his family will be considered to exist whenever the client has misused funds to such an extent that allowing him to continue to manage the assistance grant is a threat to the health or safety of himself or his family.

(c) *Provisions for a vendor or protective payment.* The following provisions for establishing a vendor or protective payment must exist:

(1) [Reserved.]

(2) For AFDC/GA cases, the client is at least 3 months delinquent in his rent.

(3) For AFDC cases only, social services measures to help the client with his money management problems have not been effective.

(4) For AFDC/GA cases, a caretaker/relative is ineligible for assistance because of failure to comply with Departmental requirements for securing support from an absent parent or establishing paternity for a child born out-of-wedlock as set forth in § 141.21 (relating to policy) and § 145.63 (relating to requirements).

(d) *Conditions for authorizing vendor payments (AFDC).* Vendor payments may be approved for AFDC if the following conditions are met:

(1) The item for the vendor payment is either board, room and board, shelter or a special allowance for child care. There may be only one vendor in a given period of time.

(2) The total monthly assistance allowance equals or exceeds the charge for the specific item provided by the vendor.

(3) The item is a recurring need. A vendor payment may not be authorized for a one-time need.

(4) The vendor agrees to the vendor payment method and agrees to accept the payment as payment in full for the item he provides.

(e) *Conditions for authorizing vendor payments to housing authorities (AFDC/GA).* Vendor payments to housing authorities may be authorized on

behalf of AFDC and GA recipients for the payment of delinquent rent owed by the recipient to the housing authority provided all of the following conditions are met:

- (1) The recipient resides in a public housing project.
- (2) The recipient owes the housing authority unpaid rent in an amount equal to or more than 3 months rent.
- (3) The housing authority submits a written request to the CAO which documents the following:
  - (i) The amount of the recipient's monthly rental charge.
  - (ii) The total amount of delinquent rent owed, the specific months for, and monthly amount of, rent which has not been paid by the recipient.
- (4) The conditions for authorizing a vendor payment as specified in subsection (d)(2)—(5) are met.
- (5) A first-level supervisor of the CAO conducts a face-to-face hearing with the recipient/tenant to establish whether or not the rent is owed. If the determination is that rent is owed to the housing authority, the supervisor will implement the following procedures:
  - (i) For GA recipients, the CAO supervisor will approve the authorization of the vendor payment to the housing authority in accord with § 291.24(e)(4) (relating to procedures).
  - (ii) For AFDC recipients, the CAO supervisor must determine whether or not the nonpayment of rent by the tenant is due to mismanagement of funds determined in accordance with the procedures specified in § 291.24(a)(1). Where the CAO supervisor determines that the nonpayment of rent by the tenant is due to mismanagement of funds, the vendor payment will be authorized only after concentrated social services provided by a line worker have failed and the CAO determines that a vendor payment is in the best interest of the client. The vendor payment will be authorized in accord with § 291.24(e)(4).
- (f) *Notification requirements.* The client shall be notified in writing when any of the following occurs:
  - (1) A creditor requests a protective or vendor payment for mismanagement of funds based on nonpayment of bills, or a housing authority requests a vendor payment for the unpaid rent of 3 or more months from a tenant receiving assistance.
  - (2) The CAO decides not to establish a protective or vendor payment following a request by a creditor or housing authority.
  - (3) The CAO decides to establish a protective or vendor payment based on mismanagement of funds or to establish a vendor payment to a housing authority. The action cannot be taken, however, unless the client is given adequate advance notice in accordance with § 133.4(b) (relating to procedures).
- (g) *Right to appeal.* The client has the right to appeal from a decision concerning a protective or vendor payment in accordance with § 275.1 (relating to

policy), except when the issue is the manner or form of payment of a special allowance for child care and the change does not result in discontinuance, suspension, reduction or termination of the allowance or force a change in child care arrangements.

#### Source

The provisions of this § 291.23 amended through August 27, 1982, effective August 28, 1982, 12 Pa.B. 2853; amended October 2, 1992, effective upon publication and apply retroactively to October 1, 1989, 22 Pa.B. 4875. Immediately preceding text appears at serial pages (109265) to (109266) and (163767).

#### Cross References

This section cited in 55 Pa. Code § 133.4 (relating to procedures).

### § 291.24. Procedures.

(a) *Procedure to determine need.* The procedures for determination of need will be as follows:

(1) *Identification of money management problems.* Money management problems will be determined as follows:

(i) *Method.* Identification of money problems may be made by visual observation of living conditions and appearances of family members in respect to health and attire, discussions with the client, reports from sources such as schools, hospitals, physicians or other individuals or organizations which provide services to the recipient's family, complaints of the client about his inability to manage and complaints from the community that the client is repeatedly failing to meet his financial obligations. However, mismanagement shall not be determined solely on the fact that bills are not paid on a timely basis.

(ii) *Types.* Circumstances which indicate there may be a problem in money management will include the following:

(A) Inability to plan and spread necessary expenditures.

(B) Overbuying, impulsive buying and excessive use of credit resulting in the diversion of funds needed for basic items.

(C) Persistent or deliberate failure to meet obligations for current food, rent and other essentials while making expenditures for other less essential purposes or for purposes unrelated to present or future needs.

(iii) *Relevant considerations.* In determining mismanagement, all relevant considerations shall be taken into account, including but not limited to the following:

(A) Whether the family has experienced some emergency or extraordinary event for which it was necessary to spend available funds.

(B) Whether expenses for necessary bills exceed the recipient's grant and other income.

(C) Whether the family has withheld the payment as a reasonable exercise of consumer rights when there is a legitimate dispute as to whether terms of an agreement have been met.

(2) *Social services.* Social services will include the following:

(i) An essential component of protective or vendor payment is the provision of services to help the client meet his responsibilities for supporting himself, if the protective payment results from the refusal of employment or training, or in cases of poor management, improve his management ability.

(ii) A plan for working with the client will be formulated and periodic reviews made to determine the continued need for a protective or vendor payment. Specific goals will be established with the participation of the client, and the achievements required for restoration of a direct payment well-defined, practical, and feasible.

(iii) Available resources are utilized including homemaker education, day care for children, family planning services, housing services and health resources.

(3) *Decision on need for protective or vendor payments.* Except for ETP, AFDC-GA child support cases and GA vendor payments to a housing authority, a decision for a protective or vendor payment will be made only after concentrated social services have failed and the CAO staff worker determines that a protective or vendor payment is in the best interest of the client. If new medical findings are deemed necessary, a medical examination may be authorized. The Executive Director or a delegate shall approve the authorization of a protective or vendor payment. To determine which of the two methods of payment is better for the family, the CAO staff worker will:

(i) Fully evaluate the nature of the money management problems that have already been identified.

(ii) Consider how the money management problems are affecting the family situation.

(iii) Enlist the help of the client, to the extent possible, in making the decision.

(b) *Selection of a protective payee.* Procedures for selection of a protective payee will be as follows:

(1) *Conditions for selecting a protective payee.* Conditions for selection of a protective payee will be as follows:

(i) A public child welfare agency will be the preferred protective payee whenever possible. In the event a public child welfare agency is unable to serve in this capacity, the selection of a protective payee shall be made by the client, if he is able to make the decision, or by the CAO with the participation and consent of the client to the extent possible.

(ii) A protective payee will be a responsible person age 21 or over who:

(A) Is acceptable to the client.

(B) Is capable of managing money.

- (C) Has a concern for the welfare of the client.
- (D) Is willing and able to spend money for the client's welfare.
- (E) Has the ability to work cooperatively with the agency and be an example to the client.
- (F) Lives nearby.
- (G) Has no financial interest of his own in the use of the assistance payments.
- (H) Agrees to guard personal information concerning the family.

(iii) In order to have a protective payee available when needed, the CAO will establish a pool of responsible and dependable persons interested in serving as protective payees.

(iv) If a responsible adult is not available to act within the above criteria, or the client is unable to make the decision, or the appointment of an available person would not be in the best interest of the client, for example, the child will not receive the benefit of the assistance payment or the payee will not meet expected reporting or accountability requirements, or the like, a staff member of a private agency, the Department or of another appropriate organization, may serve as a protective payee. The selection will be made preferably from the staff of an agency providing protective services for families. Staff of the Department will be utilized only to the extent that the Department has adequate staff for this purpose.

(v) The protective payee must not be:

- (A) Landlords, grocers, or other providers of services who deal directly with the client.
- (B) The Executive Director of the CAO.
- (C) The CAO person determining financial eligibility for the individual or family.
- (D) The CAO person providing social services for the individual or family.
- (E) The supervisor of the staff member.
- (F) Special CAO investigative or resource staff.
- (G) CAO staff handling fiscal processes related to the client.

(2) *Role of protective payee.* The role of protective payees will be as follows:

(i) The individual who agrees to act as payee for a client shall assume a dual responsibility to the client and to the agency. In accepting an appointment, the payee shall assume the obligation to see that the assistance grant will be spent for the benefit of the family included in the payment and to work cooperatively with the agency in fulfilling this role.

(ii) The payee shall sign a Form PA 50-P (Agreement (Public Nursing Home Care Program) in triplicate. The original will be retained in the case record and a copy given to the protective payee and the client.

(iii) The protective payee will have authority to make decisions about the expenditure of the assistance payment. Whenever possible, the client shall participate in the decisions and will have the opportunity at least to discuss expenditures before they are made. The payee may give a portion of the assistance payment to the client to spend for certain of the needs of the family and may pay for other needs on behalf of the client.

(iv) The responsibility of the payee to the County Assistance Office and the nature and frequency of the required reporting will be discussed with him. A clear understanding of the rights of the client and the confidential nature of the agency-client-payee relationship is essential.

(v) The payee shall be accountable to the County Assistance Office in assuring that the assistance payment has been spent on behalf of the family. The protective payee will sign a Form PA 50-P (Agreement (Public Nursing Home Care Program) each time he receives a protective payment. The CAO will provide the payee with an adequate supply of Form PA 50-P's and self-addressed stamped envelopes.

(vi) Upon request, the County Assistance Office will make available to the client information reported by the protective payee on the Form PA 50-P regarding expenditures.

(vii) Although the case-carrying staff member may not be the protective payee, he will be responsible for providing all necessary services to the client and for keeping the payee informed of the needs of the client for which disbursements are necessary.

(3) *Appointment of protective payee.* The County Assistance Office will be responsible for and has the authority to appoint the payee. It also has the responsibility and authority to terminate the service of the payee when it is decided that this type of payment is no longer to be made, or that the payee is not acting in the best interests of the client. If the protective payee requests that he be relieved of his responsibilities, or if the County Assistance Office decides that the protective payee is not carrying out his responsibilities, the County Assistance Office will appoint one of its staff members, pending the appointment of another protective payee.

(4) *Safeguarding information.* Information made available to the payee from the case record will be limited to those facts about the family members and their situation that are pertinent to the fulfillment of the responsibility of the payee. The CAO will explain to the payee the rights of the family to confidentiality.

(c) *Standards and responsibilities of the vendor.* By definition, the vendor is the person providing board, room and board, or shelter. However, the client has the right to decide, to the extent possible, where he wants to live. Should he wish to move or make arrangements with another provider of services after arrangements have been made for a vendor payment, the CAO will provide any social services deemed necessary in helping the client make the best possible decision.



If the new provider of services does not wish to participate in the vendor payment program, the CAO will reevaluate the situation of the client to determine if a protective payment is needed. The vendor shall be responsible for providing the client with the item for which he is receiving the payment.

(d) *Authorizing protective payments.* Upon approval of the Executive Director or a delegate, payment will be authorized and disbursed in accordance with Chapter 227 (relating to central office disbursement). The effective date for an ETP protective payment will be the first payment month that can be affected. The payment name will be written:

John Doe PW for  
Jerry Smith

The effective date for all other protective payments will be the first payment date whose deadline can be met, following approval by the Executive Director or his delegate. The payment name will be written:

John Doe PP for  
Mary Jones

(e) *Authorizing vendor payments.* Vendor payments will be authorized as follows:

(1) *Method of payment.* The effective date of the vendor payment will be the first payment date after the decision that a vendor payment is needed. The vendor payment will be authorized as an “H” grant and prepared in accordance with the usual disbursement procedures, with the following modifications:

(i) “V” will be included as part of the category designation, for example CV, C2V, CUV, CU2V.

(ii) Zeros will be entered 0/0/0 for the grant group composition.

(iii) In the “payment name” section of the Form PA 740, on the next open line, the category designation for the vendor payment and the name of the vendor will be entered.

(iv) In the “address” section of the Form PA 740, on the next open line, the address of the vendor preceded by (Vendor) in red pencil will be entered.

(2) *Change in need.* A change in need will affect eligibility in accordance with Subpart D (relating to determination of need and amount of assistance).

(3) *Change in vendor.* A change of vendors will be effective with the first semimonthly payment period after the change occurs.

(4) *Procedure for authorizing vendor payments to housing authorities.* When the CAO approves the direct payment of rent to a housing authority in accordance with the conditions specified in § 291.23(e), the CAO shall:

(i) Deduct from the monthly assistance allowance of the recipient an amount equal to 1-1/3 of the recipient’s monthly rental payment and pay that

deducted amount directly to the housing authority. In cases where the amount of the grant is less than the 1-1/3 amount, the total grant will be paid as a vendor payment.

(ii) The balance of the assistance allowance shall be paid to the recipient.

(iii) The vendor payment to the housing authority shall be made each month until the time as rent owed by the recipient to the housing authority is paid.

(f) *Limitation on the number of payments for AFDC.* There is no limit on the number of protective and vendor payments for AFDC provided in a given month.

(g) *Redetermination.* Redetermination policy will be as follows:

(1) A redetermination of need for protective or vendor payment and of the manner in which the protective payee is carrying out his responsibilities will be made as often as indicated by the circumstances, but no less frequently than every 6 months.

(2) When it appears that need for protective payments for an AFDC person, or payments to a person furnishing goods or services, will continue or is likely to continue beyond 2 years because all efforts have not resulted in sufficiently improved use of assistance on behalf of the child, legal action will be undertaken. The action sought may be petition for removal of the child or children from the home, custodial care for the adult or appointment of a guardian or other legal representative. The legal action will not apply to protective payment resulting from a refusal to participate in the ETP or to AFDC and GA support cases, as these protective payments may continue as long as the condition requiring them exists.

(h) *Termination of protective or vendor payment.* Termination of protective or vendor payments will occur under the following circumstances:

(1) *Conditions for terminating protective and vendor payments.* Protective and vendor payments may be terminated under the following conditions:

(i) The CAO determines that the client is able to manage the money in the best interest of the family.

(ii) Protective or vendor payments have been in effect for 2 years (excluding AFDC-GA child support cases and ETP sanctions).

(iii) An ETP sanction ends.

(iv) A guardian or trustee is appointed by the court.

(v) The CAO decides that the payee or vendor is not carrying out his responsibilities, and no other suitable payee or vendor can be found.

(vi) The protective payee or vendor states that he is no longer willing to act in that capacity, and no other suitable payee or vendor can be found.

(vii) For AFDC and GA child support cases, the caretaker/relative agrees to comply with Departmental requirements for securing support from an absent parent.

(viii) Vendor payments authorized to a housing authority have resulted in the payment of all rent owed.

(ix) The client files bankruptcy.

(2) *Effective date.* The protective or vendor payment will be discontinued with the first public assistance payment date following the date one of the conditions set forth in paragraph (1) is met.

(3) *Method.* When a protective payment is to be discontinued, the CAO will discuss the situation with the protective payee and the client and shall submit a Form PA 122. When a vendor payment is to be discontinued, the CAO will discuss the termination with both the vendor and the client. In addition, a formal letter of termination giving the details of the action will be sent to the vendor with a copy to the client.

#### Source

The provisions of this § 291.24 amended through August 27, 1982, effective August 28, 1982, 12 Pa.B. 2853; amended October 2, 1992, effective upon publication and apply retroactively to October 1, 1989, 22 Pa.B. 4875. Immediately preceding text appears at serial pages (163767) to (163768) and (109269) to (109273).

#### Cross References

This section cited in 55 Pa. Code § 133.4 (relating to procedures); 55 Pa. Code § 163.3 (relating to requirements); and 55 Pa. Code § 291.23 (relating to requirements).

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