

**Department of State  
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Sequence Number: 02-09-24  
Rule ID(s): 10019-10033  
File Date: 2/20/2024  
Effective Date: 5/20/2024

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Department of Human Services
<b>Division:</b>	Office of General Counsel
<b>Contact Person:</b>	Krisann Hodges, Deputy Commissioner
<b>Address:</b>	505 Deaderick Street, 14th floor, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-770-5291
<b>Email:</b>	<a href="mailto:Krisann.Hodges@tn.gov">Krisann.Hodges@tn.gov</a>

**Revision Type (check all that apply):**☐ Amendment☐ New☒ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1240-01-02	Family Assistance Unit - Food Stamp Program
Rule Number	Rule Title
1240-01-02-.03	Filing Unit and Assistance Unit - Afdc Only

Chapter Number	Chapter Title
1240-01-03	Non-Financial Eligibility Requirements
Rule Number	Rule Title
1240-01-03-.03	Temporary Absences Afdc
1240-01-03-.17	Age Requirements - Afdc Only
1240-01-03-.19	School Attendance - Afdc Only
1240-01-03-.20	Relationship Requirements Afdc Only
1240-01-03-.21	Evidence Regarding Relationship
1240-01-03-.23	Living in the Relative Home
1240-01-03-.24	Care and Control
1240-01-03-.25	Temporary Absence
1240-01-03-.26	Eligibility of Maternity Home Residents
1240-01-03-.27	Individuals Not Eligible to Receive Afdc
1240-01-03-.28	Deprivation of Parental Support/Care - Afdc Only
1240-01-03-.29	Death of a Parent
1240-01-03-.30	Incapacity of a Parent
1240-01-03-.31	Absence
1240-01-03-.32	Child Support - Afdc Only
1240-01-03-.33	Referrals by IV-A to the IV-D Agency

1240-01-03-.34	Assignment of Support Rights - Afdc Only
1240-01-03-.35	Cooperation in Child Support Activities
1240-01-03-.36	Good Cause for Refusal to Cooperate
1240-01-03-.37	Child Support Sanctions
1240-01-03-.38	Budgeting Procedures
1240-01-03-.39	Treatment of Support Payments
1240-01-03-.60	Strikers - Afdc Only

Chapter Number	Chapter Title
1240-01-04	Financial Eligibility Requirements
Rule Number	Rule Title
1240-01-04-.21	Policies Regarding Determination of Net Income - Afdc Only
1240-01-04-.23	Calculating Net Income and Benefit Levels - Afdc Only
1240-01-04-.28	Treatment of Lump Sum Income - Afdc Only

Chapter Number	Chapter Title
1240-01-06	Medicaid Coverage AFDC Only
Rule Number	Rule Title
1240-01-06-.01	Medicaid Coverage
1240-01-06-.02	Authorizing Medical Benefits
1240-01-06-.04	Family Members Not Covered by Medicaid
1240-01-06-.06	Extended Medicaid Coverage

Chapter Number	Chapter Title
1240-01-07	Periods of Eligibility
Rule Number	Rule Title
1240-01-07-.02	Eligibility for Afdc Benefits

Chapter Number	Chapter Title
1240-01-12	Rights and Responsibilities
Rule Number	Rule Title

1240-01-12-.05	Uses of an Afdc Grant
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Chapter Number	Chapter Title
1240-01-14	Application Process
Rule Number	Rule Title
1240-01-14-.10	Issuing Identification (ID) Cards - Food Stamps Only

Chapter Number	Chapter Title
1240-01-18	Authorization of Grants and Allotments
Rule Number	Rule Title
1240-01-18-.03	Authorization Documents
1240-01-18-.04	Method of Delivery

Chapter Number	Chapter Title
1240-01-19	Continuing Responsibilities
Rule Number	Rule Title
1240-01-19-.12	Transferring Information Outside of the State - Food Stamp/Afdc
1240-01-19-.14	Change of Address - Food Stamp/Afdc
1240-01-19-.15	Procedures for Closing a Case - Afdc Only
1240-01-19-.17	Increasing a Grant - Afdc Only
1240-01-19-.18	Decreasing a Grant - Afdc Only
1240-01-19-.19	Closing a Case - AFDC Only
1240-01-19-.22	Improperly Manufactured or Mutilated Coupons - Food Stamp Only
1240-01-19-.23	Procedures to Be Used When A/R Reports a Lost or Stolen Afdc Check

Chapter Number	Chapter Title
1240-01-21	AFDC Underpayments and Overpayments
Rule Number	Rule Title
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1240-01-21-.02	Legal Provisions

1240-01-21-.03	Policy Statement
1240-01-21-.04	Correction of Afdc Underpayments
1240-01-21-.05	Establishing the Afdc Overpayment
1240-01-21-.06	Procedures for Processing Claims
1240-01-21-.07	Establishing the Period and Amount of the Overpayment
1240-01-21-.08	Documentation of the Overpayment
1240-01-21-.09	Collection of Afdc Overpayments

Chapter Number	Chapter Title
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Rule Number	Rule Title
1240-01-22-.01	Intentional Program Violations Defined
1240-01-22-.02	Notice of Policy Regarding Disqualification Penalties
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1240-01-22-.04	Administrative Actions Pending Disqualification Proceedings
1240-01-22-.05	Disqualification Penalties
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Chapter Number	Chapter Title
1240-01-35	AFDC - Medicaid only - AFDC
Rule Number	Rule Title
1240-01-35-.01	Medicaid Only

Chapter Number	Chapter Title
1240-01-36	Caretaker - SSI Child - AFDC
Rule Number	Rule Title
1240-01-36-.01	Caretaker SSI Child

Chapter Number	Chapter Title
1240-01-37	Emergency Assistance Program

<b>Rule Number</b>	<b>Rule Title</b>
1240-01-37-.01	Definitions
1240-01-37-.02	Eligibility Criteria
1240-01-37-.03	Kinds of Assistance Provided to Meet Emergency Situations
1240-01-37-.04	Kinds of Service Provided to Meet Emergency Situations
1240-01-37-.05	Activities Related to the Administration of the Emergency Assistance Program
1240-01-37-.06	Termination of Program

<b>Chapter Number</b>	<b>Chapter Title</b>
1240-01-40	Health Services
<b>Rule Number</b>	<b>Rule Title</b>
1240-01-40-.01	Early and Periodic Screening, Diagnosis and Treatment (EPSD & T)
1240-01-40-.02	Family Planning

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1240-01-02  
Family Assistance Unit Food Stamp Program  
Repeals

Rule 1240-01-02-.03 Filing Unit and Assistance Unit - Afdc Only is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-03  
Non-Financial Eligibility Requirements  
Repeals

Rule 1240-01-03-.03 Temporary Absences Afdc is repealed in its entirety.

Rule 1240-01-03-.17 Age Requirements - Afdc Only is repealed in its entirety.

Rule 1240-01-03-.19 School Attendance - Afdc Only is repealed in its entirety.

Rule 1240-01-03-.20 Relationship Requirements Afdc Only is repealed in its entirety.

Rule 1240-01-03-.21 Evidence Regarding Relationship is repealed in its entirety.

Rule 1240-01-03-.23 Living in the Relative Home is repealed in its entirety.

Rule 1240-01-03-.24 Care and Control is repealed in its entirety.

Rule 1240-01-03-.25 Temporary Absence is repealed in its entirety.

Rule 1240-01-03-.26 Eligibility of Maternity Home Residents is repealed in its entirety.

Rule 1240-01-03-.27 Individuals Not Eligible to Receive Afdc is repealed in its entirety.

Rule 1240-01-03-.28 Deprivation of Parental Support/Care - Afdc Only is repealed in its entirety.

Rule 1240-01-03-.29 Death of a Parent is repealed in its entirety.

Rule 1240-01-03-.30 Incapacity of a Parent is repealed in its entirety.

Rule 1240-01-03-.31 Absence is repealed in its entirety.

Rule 1240-01-03-.32 Child Support - Afdc Only is repealed in its entirety.

Rule 1240-01-03-.33 Referrals by IV-A to the IV-D Agency is repealed in its entirety.

Rule 1240-01-03-.34 Assignment of Support Rights - Afdc Only is repealed in its entirety.

Rule 1240-01-03-.35 Cooperation in Child Support Activities is repealed in its entirety.

Rule 1240-01-03-.36 Good Cause for Refusal to Cooperate is repealed in its entirety.

Rule 1240-01-03-.37 Child Support Sanctions is repealed in its entirety.

Rule 1240-01-03-.38 Budgeting Procedures is repealed in its entirety.

Rule 1240-01-03-.39 Treatment of Support Payments is repealed in its entirety.

Rule 1240-01-03-.60 Strikers - Afdc Only is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-04  
Financial Eligibility Requirements  
Repeals

Rule 1240-01-04-.21 Policies Regarding Determination of Net Income - Afdc Only is repealed in its entirety.

Rule 1240-01-04-.23 Calculating Net Income and Benefit Levels - Afdc Only is repealed in its entirety.



Rule 1240-01-04-.28 Treatment of Lump Sum Income - Afdc Only is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-06  
Medicaid Coverage AFDC Only  
Repeals

Rule 1240-01-06-.01 Medicaid Coverage is repealed in its entirety.

Rule 1240-01-06-.02 Authorizing Medical Benefits is repealed in its entirety.

Rule 1240-01-06-.04 Family Members Not Covered by Medicaid is repealed in its entirety.

Rule 1240-01-06-.06 Extended Medicaid Coverage is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-07  
Periods of Eligibility  
Repeals

Rule 1240-01-07-.02 Eligibility for Afdc Benefits is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-12  
Rights and Responsibilities  
Repeals

Rule 1240-01-12-.05 Uses of an Afdc Grant is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-14  
Application Process  
Repeals

Rule 1240-01-14-.10 Issuing Identification (ID) Cards - Food Stamps Only is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-18  
Authorization of Grants and Allotments  
Repeals

Rule 1240-01-18-.03 Authorization Documents is repealed in its entirety.

Rule 1240-01-18-.04 Method of Delivery is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-19  
Continuing Responsibilities  
Repeals

Rule 1240-01-19-.12 Transferring Information Outside of the State - Food Stamp/Afdc is repealed in its entirety.

Rule 1240-01-19-.14 Change of Address - Food Stamp/Afdc is repealed in its entirety.

Rule 1240-01-19-.15 Procedures for Closing a Case - Afdc Only is repealed in its entirety.

Rule 1240-01-19-.17 Increasing a Grant - Afdc Only is repealed in its entirety.

Rule 1240-01-19-.18 Decreasing a Grant - Afdc Only is repealed in its entirety.

Rule 1240-01-19-.19 Closing a Case - AFDC Only is repealed in its entirety.

Rule 1240-01-19-.22 Improperly Manufactured or Mutilated Coupons - Food Stamp Only is repealed in its entirety.

Rule 1240-01-19-.23 Procedures to Be Used When A/R Reports a Lost or Stolen Afdc Check is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-21  
AFDC Underpayments and Overpayments  
Repeals

Rule 1240-01-21-.01 Definitions is repealed in its entirety.

Rule 1240-01-21-.02 Legal Provisions is repealed in its entirety.

Rule 1240-01-21-.03 Policy Statement is repealed in its entirety.

Rule 1240-01-21-.04 Correction of Afdc Underpayments is repealed in its entirety.

Rule 1240-01-21-.05 Establishing the Afdc Overpayment is repealed in its entirety.

Rule 1240-01-21-.06 Procedures for Processing Claims is repealed in its entirety.

Rule 1240-01-21-.07 Establishing the Period and Amount of the Overpayment is repealed in its entirety.

Rule 1240-01-21-.08 Documentation of the Overpayment is repealed in its entirety.

Rule 1240-01-21-.09 Collection of Afdc Overpayments is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-22  
AFDC Intentional Program Violations  
Repeals

Rule 1240-01-22-.01 Intentional Program Violations Defined is repealed in its entirety.

Rule 1240-01-22-.02 Notice of Policy Regarding Disqualification Penalties is repealed in its entirety.

Rule 1240-01-22-.03 Pre-Hearing Investigation Requirements is repealed in its entirety.

Rule 1240-01-22-.04 Administrative Actions Pending Disqualification Proceedings is repealed in its entirety.

Rule 1240-01-22-.05 Disqualification Penalties is repealed in its entirety.

Rule 1240-01-22-.06 Court Actions on Consent Agreement is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-35  
AFDC - Medicaid only - AFDC  
Repeals

Rule 1240-01-35-.01 Medicaid Only is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-36  
Caretaker - SSI Child - AFDC  
Repeals

Rule 1240-01-36-.01 Caretaker SSI Child is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-37  
Emergency Assistance Program  
Repeals

Rule 1240-01-37-.01 Definitions is repealed in its entirety.

Rule 1240-01-37-.02 Eligibility Criteria is repealed in its entirety.

Rule 1240-01-37-.03 Kinds of Assistance Provided to Meet Emergency Situations is repealed in its entirety.

Rule 1240-01-37-.04 Kinds of Service Provided to Meet Emergency Situations is repealed in its entirety.

Rule 1240-01-37-.05 Activities Related to the Administration of the Emergency Assistance Program is repealed in its entirety.

Rule 1240-01-37-.06 Termination of Program is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

Chapter 1240-01-40  
Health Services  
Repeals

Rule 1240-01-40-.01 Early and Periodic Screening, Diagnosis and Treatment (EPSD & T) is repealed in its entirety.

Rule 1240-01-40-.02 Family Planning is repealed in its entirety.

Authority: T.C.A. §§ 4-3-1204 and 71-1-105.

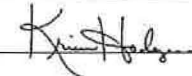
\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the the Department of Human Services (board/commission/other authority) on January 23, 2024, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: January 23, 2024

Signature:



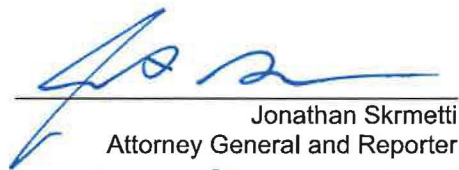
Name of Officer: Krisann Hodges

Title of Officer: Deputy Commissioner/General Counsel

Agency/Board/Commission: Department of Human Services

Rule Chapter Number(s): 1240-01 -02, 03, 04, 06, 07, 12, 14, 18, 19, 21, 22, 35, 36, 37, 40

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.



Jonathan Skrmetti  
Attorney General and Reporter  
Feb 2, 2024

Date

#### Department of State Use Only

Filed with the Department of State on: 2/20/2024

Effective on: 5/20/2024

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Feb 20 2024, 11:59 am

Secretary of State  
Division of Publications



Tre Hargett  
Secretary of State

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

Repealing these rules will not impact small businesses.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

There is no impact on local governments.



### Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules repeal unnecessary and obsolete rules no longer being utilized by the Department of Human Services.

A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There are no relevant federal or state regulations mandating promulgation of these rules.

Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The repeal of these rules will not impact any persons, organizations, or other entities because the rulemaking package merely repeals obsolete rules no longer being used by the Department of Human Services.

Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules will have no impact on revenues.

Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mary Dobbs, Legislative Liaison, Department of Human Services

Identification of the appropriate agency representative or representatives who will explain the rule at scheduled meeting of the committees;

Mary Dobbs, Legislative Liaison, Department of Human Services

Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Mary Dobbs, 505 Deaderick Street, Nashville, TN 37243, 615-741-0278, Mary.Dobbs@tn.gov

Any additional information relevant to the rule proposed for continuation that the committee requests;

N/A

**HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-01-02  
FAMILY ASSISTANCE UNIT - FOOD STAMP PROGRAM**

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1240-01-03-.36 Good Cause for Refusal to Cooperate

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1240-01-19-.18 Decreasing a Grant - Afdc Only

1240-01-19-.19 Closing a Case - AFDC Only

1240-01-19-.22 Improperly Manufactured or Mutilated Coupons - Food Stamp Only

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1240-01-21-.02 Legal Provisions

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1240-01-21-.04 Correction of Afdc Underpayments

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- 1240-01-21-.06 Procedures for Processing Claims
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- 1240-01-22-.01 Intentional Program Violations Defined
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## **CHAPTER 1240-01-35 AFDC - MEDICAID ONLY - AFDC**

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- 1240-01-37-.03 Kinds of Assistance Provided to Meet Emergency Situations

1240-01-37-.04 Kinds of Service Provided to Meet Emergency Situations

1240-01-37-.05 Activities Related to the Administration of the Emergency Assistance Program

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**CHAPTER 1240-01-40  
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1240-01-40-.02 Family Planning

**1240-01-02-.03 FILING UNIT AND ASSISTANCE UNIT--AFDC ONLY.**

- (1) Filing Unit Defined. The filing unit is the group of individuals for whom assistance is sought.
  - (a) ~~Any individual has the right to file an application for assistance.~~
  - (b) ~~An application filed on behalf of a dependent child must include the following:~~
    - 1. ~~Any blood related or adoptive brother or sister living in the home including half siblings, who meet the age, deprivation, and relationship requirements of AFDC eligibility; and~~
    - 2. ~~Any natural or adoptive parent(s), including an incapacitated parent living in the home.~~
- (2) Assistance Unit Defined. The assistance unit is the group of individuals for whom assistance is authorized.
  - (a) ~~The assistance unit must include the following persons, unless excluded under subparagraph (c) of this rule:~~
    - 1. ~~A dependent child; and~~
    - 2. ~~Any blood related or adoptive brother or sister living in the home, including half siblings; and~~
    - 3. ~~Any natural or adoptive parent(s) including an incapacitated parent living in the home.~~
  - (b) ~~The following persons will be included in the assistance unit if an application is filed on their behalf and they are eligible:~~
    - 1. ~~Parent of a minor parent;~~
    - 2. ~~Stepbrothers/sisters with no natural or adoptive parent living in the home (or they can have a separate filing/assistance unit);~~
    - 3. ~~Stepparent living in the home with the child when a natural/adoptive parent is incapacitated;~~
    - 4. ~~Parent(s) of an SSI child(ren) when there are no other eligible children. Both parents are eligible if one is incapacitated;~~
    - 5. ~~Grantee relative other than a parent.~~
  - (c) ~~The following persons must be excluded from the assistance unit:~~
    - 1. ~~Individuals who receive SSI benefits;~~
    - 2. ~~Aliens who would be included but for the citizenship and alienage requirements in rule 1240-01-03-.08;~~

3. ~~Aliens who would be included but are ineligible due to the deemed income or resources of their sponsors, or due to sponsorship by an agency or organization;~~
  4. ~~Individuals sanctioned for failure to cooperate with WIN or IV-D requirements;~~
  5. ~~Individuals ineligible because of lump sum income.~~
- (3) ~~Dependent Child Defined. A dependent child is a needy child under the age of eighteen (18) who is deprived of parental support or care because one or both parents are absent from the home, deceased, or physically/mentally incapacitated.~~
- (a) ~~In order to be eligible for assistance, the child must also live with a relative within one of the following degrees of kinship:~~
1. ~~Any blood relative, i.e., father, mother, brother, sister, uncle, aunt, first cousin, nephew, or niece. This includes relationships to persons of the preceding generations as denoted by prefixes of grand, great, or great-great, and those of half blood;~~
  2. ~~Stepfather, stepmother, stepbrother and stepsister;~~
  3. ~~Legally adoptive parents of the child or of the child's parents, the natural and other legally adopted children of such persons, and the blood relatives of such persons, including first cousins, nephews and nieces; and~~
  4. ~~Legal spouses of any of the persons named in the three above groups. This applies even though the marriage may have been terminated by death or divorce.~~
- (b) ~~Any relative filing an application on behalf of a child must meet all of the following criteria:~~
1. ~~Provide a home for the child;~~
  2. ~~Exercise primary responsibilities for the care and control of the child.~~
- (4) ~~Grantee Relative Defined. A grantee relative is a relative other than the natural or adoptive parent, who files an application on behalf of a child. He/she may or may not request to be included in the assistance unit but is the payee.~~
- (5) ~~Legal Guardian Defined. A legal guardian is an individual named by a court of competent jurisdiction to manage the affairs of an adult who has been adjudicated mentally or physically incapacitated; or one who has been named to manage the affairs and/or person of a minor.~~
- (a) ~~A guardian is not eligible to be included in the assistance unit unless he/she is a relative.~~
- (b) ~~A guardian may file an application on behalf of a dependent child and be appointed payee for the grant. The child must, however, live in the home of a relative to be eligible.~~



- ~~(c) If the child lives with a relative who has a legally appointed guardian, the guardian must file the application and be named payee for the grant. (See rule 1240-01-03-.02-.10(b)(2) below regarding the legal guardian of a minor.)~~
- ~~(6) Half Brothers/Sisters Defined. Half brothers/sisters are siblings who share a natural or adoptive parent. These must be included in the assistance unit.~~
- ~~(7) Stepbrothers And Stepsisters Defined. Stepbrothers/sisters are siblings who share a natural or adoptive parent but their respective parents are married to each other. They may be included in the same assistance unit or each stepparent may file as a separate unit.~~
- ~~(8) Stepparent Defined. The spouse of the natural or adoptive parent. The income of a stepparent in the home is deemed available to the dependent child.~~
- ~~(9) Minor Child Defined. A minor child is any individual under eighteen (18) years of age.~~
  - ~~(a) Minor Applicant. A minor applying for assistance for his/her child must be included in the assistance unit with said child.~~
    - ~~1. Parent(s) of a Minor Parent. The income of a parent(s) living with a minor applicant is deemed available to the assistance unit. The parent of the minor parent may be added to the assistance unit if application is made and he/she is eligible. In such case, the minor parent is the "dependent child".~~
    - ~~2. Legal Guardian of a Minor Parent. The income of a legal applicant/recipient is deemed available to the assistance unit when the guardian and minor parent reside together.~~
- ~~(10) Pregnant Woman As An Applicant. An assistance unit may consist of one person, a pregnant woman, if it has been medically verified that the expected child is to be born within four months, and the woman and expected child (if born) would meet all other eligibility criteria.~~
  - ~~(a) Medicaid Coverage Prior to Sixth Month. Medicaid Coverage Only will be provided to a pregnant woman upon verification of pregnancy, for the first two trimesters of pregnancy. Medicaid coverage retroactive to the first two trimesters of pregnancy will be provided to pregnant women who request it, and who provide verification of medical expenses.~~
  - ~~(b) Abortion, Miscarriage or Surrender for Adoption. Assistance to a pregnant woman is terminated at the time the pregnant woman aborts the pregnancy, miscarries, or surrenders the child for adoption.~~
- ~~(11) Supplemental Security Income (SSI) Recipients. An SSI recipient is any parent receiving Supplemental Security Income benefits from the Social Security Administration.~~
  - ~~(a) SSI recipients are ineligible to be included in the assistance unit. Their income/resources are excluded for all other filing/assistance unit members.~~
  - ~~(b) The parent of an eligible SSI child may be approved as the only assistance unit member, if there are no other children and the parent meets all other eligibility criteria.~~

~~Authority: T.C.A. § 14-8-106; PL §98-369, §§2361, and 2640, PL 97-35, and 45 C.F.R. 206.10. Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new~~

rule filed December 10, 1981; effective January 25, 1982. Repeal and new rule filed January 7, 1985; effective February 6, 1985.

#### **~~1240-01-03-.03 TEMPORARY ABSENCES AFDC.~~**

~~Temporary absences from the state (or county), with subsequent returns to the state or intent to return once the purpose of the absence has been accomplished, do not terminate residence. Residence is retained until abandoned. A decision to continue assistance to a recipient out of state will be based on two factors:~~

- ~~(1) Whether it can be established that he/she is actually maintaining any identifiable living arrangement in Tennessee and he/she has plans to return to Tennessee, and~~
- ~~(2) Whether he/she has applied for or is receiving assistance in the state where he/she presently is. If it cannot be established that the recipient is maintaining a home in Tennessee or it is established that he/she has applied for or is receiving assistance in the state where he/she is, it can only be assumed that he/she intends for the moment to remain out of Tennessee and assistance from this state will be discontinued. If a recipient remains out of the state longer than 3 months, the recipient will be required to provide a current statement about his/her intention to return to Tennessee. If he/she does not return at the time indicated, AFDC will be discontinued.~~

~~Authority: T.C.A. § 14-8-106 and 45 C.F.R. 224.50.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### **~~1240-01-03-.17 AGE REQUIREMENTS – AFDC ONLY.~~**

- ~~(1) To be eligible for AFDC a child must be under 18 years of age. Payment may be made for an otherwise eligible child for the month in which he/she attains age 18 years.~~
- ~~(2) There is no eligibility requirement regarding the age of the grantee relative or second parent.~~
  - ~~(a) Attainment of Specific Age. For AFDC eligibility purposes a person is considered to have attained a certain age on the anniversary of his/her birth.~~
  - ~~(b) Age Proof~~
    - ~~1. Reserved for future use.~~
    - ~~2. The age of an AFDC child must be proven to fall within the age limit given in the preceding paragraph prior to approval or continuation of benefits.~~
    - ~~3. The following are acceptable proofs of age. They are listed in order of priority:~~
      - ~~(i) Children~~
        - ~~(I) Birth certificate or birth certificate information b the best proof of age.~~
        - ~~(II) Delayed birth certificate.~~

~~(III) Pending receipt of birth certificate information, the following are acceptable documents to establish a child's age:~~

- ~~I. Hospital birth records or the records of the physician or midwife in attendance at the child's birth;~~
- ~~II. Baptismal certificate;~~
- ~~III. School records which show the child's age or date of birth;~~
- ~~IV. Insurance policies which show the child's age or date of birth;~~
- ~~V. Census Bureau records; or~~
- ~~VI. Unaltered family Bible records.~~

~~(IV) When the appearance of a child for whom AFDC is requested obviously corroborates an A/R's statement that the child is under 18 years of age, assistance may be granted pending receipt of evidence of the month and year of the child's birth when other proof establishing relationship is available.~~

~~(ii) Adults. There is no requirement that the age of the grantee relative, second parent, caretaker, legal guardian, or consecrator be proved.~~

~~(c) Evaluation of Evidence of Age. When any evidence other than a birth certificate is used to establish age, the validity of the evidence must be evaluated. Conflicts in data concerning age should be resolved.~~

Authority: ~~T.C.A. §§ 14-3-102, 14-8-103, 14-8-106, and 14-27-104; and PL 97-35.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed December 3, 1980; effective January 19, 1981. Repeal and new rule filed December 10, 1981; effective January 25, 1982.~~

#### **~~1240-01-03-.19 SCHOOL ATTENDANCE - AFDC ONLY.~~**

~~(1) A child under age 18 who is otherwise eligible may receive AFDC regardless of school attendance. However, school attendance is a factor in certain WIN registration requirements and in the disregard of a child's earned income.~~

~~(a) A child is considered to meet the school attendance requirements for WIN and for income disregard purposes, respectively, under the following circumstances:~~

- ~~1. WIN Exemption. A child age 16 to 18, unless otherwise exempt, must register for WIN unless he/she is enrolled in and physically attending full-time elementary or secondary school or an equivalent level of vocational or technical training.~~
- ~~2. Earned Income Exclusions/Disregards for Student Child Recipients.~~

~~(i) Exclusion of Earnings for a Full-Time Student. Earnings (other than JTPA) of a child recipient who is a full-time student are excluded for the gross~~

~~income standard test and grant computations up to six months each calendar year.~~

- ~~(ii) Disregard of Earnings for a Full Time Student, or for a Part Time Student Not Employed Full Time. If a child's gross earnings are within the gross income standard, the earnings of a child recipient who is a full time student after the six month period, or a part time student not employed full time, are disregarded.~~

~~For a part time student employed full time, or for a child recipient without student status, the applicable earned income disregards (\$30 and/or 1/3, work allowance, child/dependent care) are applied.~~

~~For purposes of applying these exclusions/disregards, a student is a child recipient attending a school, college, university, or a course in vocational or technical training designed to prepare him/her for gainful employment and includes participation in the Job Corps Program under J.T.P.A.~~

- ~~(b) Verification. For any child age 16 to 18, and for a child of any age who is employed, certification from the school that the child is attending school full time or part time for the curriculum in which he/she is enrolled is required. This certification is to be obtained at application and at each redetermination of eligibility and shall be considered verification of part/full time student status. Clients are to be required to report any change in a child's school attendance (e.g. a child drops out of school).~~
- ~~(c) A student retains student status during official school vacations and breaks if he/she met requirements prior to the vacation/break and intends to return to school after the vacation/break.~~
- ~~(d) A child who is receiving elementary/secondary or equivalent level vocational/technical instruction from a homebound teacher meets student requirements. A homebound teacher is a certified teacher employed by the school in which the child is enrolled.~~
- ~~(e) If application is made for a child 16 to 18 years of age during a school term and the child is not enrolled and attending school regularly, he/she must register for WIN prior to being added to the aid group, unless otherwise exempt.~~
- ~~(f) Participation in correspondence courses, other courses of home study, apprenticeships, and rehabilitation programs other than academic or instructional, vocational/technical training, does not qualify a child as a student.~~

~~Authority: T.C.A. §§ 14-8-104, 14-8-106, and 14-27-104; 7 C.F.R. 273.8; 45 C.F.R. 233.20; and PL 98-369 § 2642.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982. Amendment filed July 20, 1982; effective October 13, 1982. Amendment filed January 7, 1985; effective February 6, 1985.~~

#### **~~1240-01-03--20 RELATIONSHIP REQUIREMENTS AFDC ONLY.~~**

- ~~(1) To be eligible for AFDC, a child must live with a relative (or relatives) within the following degrees of relationship:~~

- (a) ~~Father, mother, brother, sister, uncle, aunt, first cousin, nephew, or niece. This includes relationships to persons of the preceding generations as denoted by prefixes of grand, great or great-great and those of half blood;~~
  - (b) ~~Stepfather, stepmother, stepbrother and stepsister;~~
  - (c) ~~Legally adoptive parents of the child or of the child's parents, the natural and other legally adopted children of such persons and the blood relatives of such persons, including first cousins, nephews and nieces; and termination of parental rights does not affect a child's relationship to his natural extended family. However, adoption of a child or his/her parent establishes a legal relationship to a new set of relatives — both immediate and extended families. The adopted relatives within specified degrees of relationship qualify to receive AFDC for an adopted child, but blood relatives of the adopted child (or the child's parent) cannot receive AFDC.~~
  - (d) ~~Legal spouses of any of the persons named in the three above groups. This applies even though the marriage may have been terminated by death or divorce.~~
- (2) ~~In determining whether any of these relationships exist, for the purpose of either granting or denying assistance, only the necessary blood relationship must be established.~~

Authority: ~~T.C.A. § 14-8-106; 45 C.F.R. 244.50 and C.F.R. 233.60 (c)(i)(iv)(A); and 42 USC § 606 (a).~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment to rule filed January 30, 1985; effective March 1, 1985.~~

#### **~~1240-01-03-.21 EVIDENCE REGARDING RELATIONSHIP.~~**

- (1) ~~In order to receive AFDC for a child, it must be established that the applicant/grantee relative is within one of the specified degrees of relationship to the child. Documentary evidence of relationship is required except as specified in (i) below. The following sources of verification are listed in order of priority:~~
  - (a) ~~Birth Certificates or copies of birth certificates or Bureau of Vital Statistics records which establish relationship of a child to his parents; and in instances when applicant/grantee relative is other than the parent, which establish relationship of the child's parent to the relative requesting AFDC for the child. Adoption and legitimization records also establish relationship of the child to his parent(s).~~
  - (b) ~~Census Bureau records listing the children belonging to a particular family.~~
  - (c) ~~Statements of physicians or midwives who attended the birth and remember the names of the people involved.~~
  - (d) ~~Family Bible or other family records which are written in ink and have not been altered, wills and deeds to property naming individuals and specifying relationships.~~
  - (e) ~~Social agency records, including those of DHS, which are at least one year old and which consistently specify the degree of relationship of the applicant/grantee relative to the child.~~
  - (f) ~~Juvenile Court, other court and hospital records.~~

- (g) ~~Insurance policies at least one year old in which relationship of the child to the applicant/grantee relative is specified.~~
  - (h) ~~Copies of income tax returns listing the child as a specific relative and school records which specify relationship.~~
  - (i) ~~An award letter or other acceptable evidence from SSA that RSDI payments have been awarded to a child based on his/her parent's account.~~
  - (j) ~~Trust documents, and other such instruments, military or veterans records.~~
  - (k) ~~INS records, Indian Agency records, other government or local agency records, newspaper records, and local histories.~~
- (2) ~~In the absence of any documentary proof of relationship, the relative's statement as to the reason(s) there is no proof, plus his/her detailed statement as to how he/she is related to the child, plus at least one notarized statement from a person in a position to know the facts of the situation in which he/she describes the relationship and how he/she knows it to be true will be acceptable. Copies of marriage and divorce records, legitimization records or statements from court clerks concerning marriages and divorces or legitimization will be required to establish relationship when the relationship is through the paternal line.~~

Authority: ~~T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 224.50 and 233.20.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985.~~

#### ~~1240-01-03--23 LIVING IN THE RELATIVE HOME.~~

- (1) ~~To be eligible for AFDC a child must live in a place of residence maintained by the relative as his or her own home and the home of the child. A home is considered to be a family setting maintained (or in the process of being established) by the relative who requests AFDC for a child in his/her care and control. Usually the child continuously shares the same household with the applicant relative. A child is considered to be living in the relative's home as long as the applicant/relative continues to provide care and control of the child even though circumstances may require temporary absence of either the child or the relative from the customary family setting.~~
- (2) ~~The EW will contact rental offices, landlords, day care centers, and public schools to verify that the children in the AFDC filing unit actually live with the individual making application. The following additional sources of evidence will be used if the child is an infant or extenuating circumstances result in no or questionable information being available through the above sources:~~
  - (a) ~~Personal contact with neighbors as to whether to their own knowledge the child lives in the home.~~
  - (b) ~~Personal contact with relatives as to where the child lives.~~
  - (c) ~~Physician, clinic, public health records.~~
  - (d) ~~Worker's observations.~~

Authority: T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 224.50 and 233.20.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985, (Formerly 1240-01-03-.22).

#### **~~1240-01-03-.24 CARE AND CONTROL.~~**

- (1) ~~A relative has care and control of a child if he/she is providing day to day care, support, supervision and has major responsibility for these parental obligations.~~
- (2) ~~Reserved for Future Use.~~

Authority: T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 224.50 and 233.20.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985.

#### **~~1240-01-03-.25 TEMPORARY ABSENCE.~~**

- (1) ~~Temporary absence of the child or relative is one of short duration with specific intentions of returning on or about a specific date. Any absence of either the child or the grantee relative which will extend beyond a 6 month period is studied carefully to determine whether this relative does, in fact, retain the care, supervision and control of this child for a major portion of each month.~~
  - (a) ~~Assistance may be granted to a relative for a child who is temporarily out of the home when, for example, the child:~~
    - 1. ~~Visits.~~
    - 2. ~~Is in a hospital temporarily for treatment.~~
    - 3. ~~Attends summer camp.~~
    - 4. ~~Attends an accredited or approved school away from home for the purpose of academic education or vocational or technical training because school facilities to meet this child's special needs are not available in his/her own community. It must be documented that the child does have special needs which cannot be met in his/her home community.~~
    - 5. ~~Attends a college or university or other vocational or technical school on a scholarship or other grant that is not available in his/her own community and his/her parents or other relatives retain responsibility for his/her care and control.~~
    - 6. ~~Is in a psychiatric facility and has not been placed there by a Court Order and is only temporarily out of the home.~~
    - 7. ~~Is in a maternity home.~~
  - (b) ~~Assistance may continue to be paid to a relative who is temporarily out of the home when, for example, the relative:~~
    - 1. ~~Visits.~~

2. ~~Is providing some care for a spouse or child who is hospitalized.~~
  3. ~~Is attending a specialized training facility not available in his/her home community (as through the auspices of Services for the Blind or Division of Vocational Rehabilitation).~~
  4. ~~Is hospitalized for acute illness or injury, is in a maternity home or convalescent care facility for the purpose of obtaining special care not available in the home.~~
  5. ~~Is temporarily absent for the purpose of setting up a home to which he/she will remove his/her children.~~
  6. ~~Enters a psychiatric facility and has not been placed there by Court Order and is only temporarily absent from the home for a period of time not to exceed 6 months.~~
- (2) ~~When it cannot be established that the child lives in the home of the applicant/grantee relative or when the applicant/grantee relative states that the child is temporarily absent, it must be established that the applicant/grantee relative does, in fact, retain full responsibility for the child's care and control. This determination will be based on the following information:~~
- (a) ~~The whereabouts of the child and the date of departure and the expected date of return to the home.~~
  - (b) ~~The reason for the child's absence and the person responsible for the plan.~~
  - (c) ~~The responsibility the applicant/grantee relative has for the child while he/she is away from home and,~~
  - (d) ~~Actual arrangements being made for the child's return to the home.~~

Authority: T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 233.20.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed September 19, 1985; effective December 14, 1985.

#### **1240-01-03-.26 ELIGIBILITY OF MATERNITY HOME RESIDENTS.**

- (1) ~~Eligibility for a person residing in a maternity home is determined as though the person were currently living in her own (or foster) home. That is, a period of time spent in a maternity home is defined as a temporary absence from one's usual home and eligibility is established based on the circumstances which exist in that usual home.~~
- (2) ~~Applications from Maternity Home Residents.~~
  - (a) ~~Applications from women who are entering (or plan to enter) a maternity home are accepted and processed in the county of usual residence, i.e., the person's "home county."~~
  - (b) ~~Applications from women who are in a maternity home are accepted and processed in the county where the maternity home is located.~~



- (c) ~~In either (a) or (b) the application county requests information from the other county as necessary to complete the eligibility determination. The county from which information is requested, obtains and provides the required information promptly.~~
- (3) ~~Eligibility for Applicants in a Maternity Home.~~
  - (a) ~~A maternity home resident must meet all technical and financial AFDC eligibility requirements as any other AFDC applicant (see (5) below for special provisions for foster care children).~~
  - (b) ~~A pregnant woman may request AFDC for herself only (as a pregnant woman) or she may request assistant for herself and her dependent children in the home.~~
    - 1. ~~As a pregnant woman:~~
      - (i) ~~she must have reached her 6th month of pregnancy and she may qualify for Medicaid in her first and second trimester.~~
      - (ii) ~~she must meet all eligibility requirements as though the unborn were born and living with her and,~~
      - (iii) ~~the income of a spouse in the home must be considered and/or the income of a parent/legal guardian of a minor must be deemed to the minor pregnant woman. (See exception for SSI recipients.)~~
      - (iv) ~~a minor must not be receiving AFDC as a dependent child with her siblings in the home.~~
    - 2. ~~As the applicant relative of dependent children in the home:~~
      - (i) ~~pregnancy does not have to be verified (when an applicant relative has children for whom AFDC is requested, her pregnancy is not an issue).~~
      - (ii) ~~the dependent child(ren) in the home must meet all eligibility requirements and she must meet all requirements as caretaker relative.~~
      - (iii) ~~the income of a spouse in the home will be considered and the income of a parent/legal guardian of a minor will be deemed to the minor applicant. (See exception for SSI recipients.)~~
      - (iv) ~~the applicant must not be receiving AFDC as a dependent child with her siblings in the home. (See rule 1240-01-02-.03 (10)).~~
- (c) ~~If the home situation is being dissolved, the current home situation of the maternity home resident is considered in determining her eligibility.~~
- (4) ~~Eligibility for Recipients Residing in or Entering a Maternity Home.~~
  - (a) ~~No change in an AFDC grant or filing unit is made when a recipient is residing in or entering a maternity home.~~
  - (b) ~~An alternate payee will be named to receive the grant if necessary.~~

(5) ~~Special Provisions for Foster Care Recipients.~~

- ~~(a) A person who enters a maternity home from a foster home may apply for and receive AFDC as any other pregnant woman or caretaker relative whether foster care payments are made through Title IV-E or some other source.~~
- ~~(b) The foster care payment as well as payment made to the maternity home by DHS or other child caring/placing agency are disregarded in determining the maternity home resident's eligibility.~~
- ~~(c) Any income the maternity home resident has in her own right will be considered available first to her own foster boarding home costs.~~
- ~~(d) AFDC status determined for the purposes of IV-E eligibility will remain unchanged during the foster care recipient's temporary residence in a maternity home.~~
- ~~(e) This department having custody is not a factor in determining her eligibility.~~
- ~~(f) If the foster care child enters the maternity home from a foster home, the circumstances of the home from which the child was removed is disregarded. This is because the "home" situation has been dissolved, at least for the present time, for that child.~~
- ~~(g) If the child enters the maternity home directly from her own home and that home situation is being dissolved, the circumstances in her relative's home, i.e., income, resources, and assistance unit policy is disregarded.~~

Authority: T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 233.20.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed September 19, 1985; effective December 14, 1985.

**1240-01-03-.27 INDIVIDUALS NOT ELIGIBLE TO RECEIVE AFDC.**

- ~~(1) Those persons who are inmates of any institution. An inmate is a person living in an institution who is not free to leave on his/her volition or has been committed.~~
- ~~(2) Those persons who are in facilities owned and/or operated by the Correction Department or in any correction foster home not approved by DHS.~~
- ~~(3) An A/R cannot receive AFDC for a dependent child when the child is residing in a child caring institution or other child caring facility (except day care). However, the child himself/herself may be eligible for AFDC foster care payments or SSI benefits. A child born to a mother who is herself in foster care may receive regular AFDC payments if all eligibility requirements are met and the child is actually living in the home with the mother.~~

Authority: T.C.A. § 14-3-102; and 45 C.F.R. 233.10 and 233.90.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.

**1240-01-03-.28 DEPRIVATION OF PARENTAL SUPPORT/CARE - AFDC ONLY.**

~~A child who is otherwise eligible for AFDC must be found both to be in need by public assistance standards and to be deprived of parental support and/or care. Deprivation must be due to any one of the following:~~

- ~~(1) Death of one or both parents;~~
- ~~(2) Incapacity of a parent;~~
- ~~(3) Continued absence from the home in which the child lives of one or both parents.~~

~~Authority: T.C.A. §§ 14-3-102 and 14-8-106; and 45 C.F.R. 233.10 and 233.90 (a)(1).~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed December 17, 1982; effective March 16, 1983. Amendment filed August 23, 1983; effective September 22, 1983.~~

#### ~~1240-01-03-.29 DEATH OF A PARENT.~~

~~A child may be found to be deprived of parental support/care by reason of the documented death of one or both parents.~~

~~Authority: T.C.A. §§ 14-8-102, 14-8-106, 14-8-122, and 14-8-124; and 45 C.F.R. 232 and 233.90(c)(1)(ii).~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.~~

#### ~~1240-01-03-.30 INCAPACITY OF A PARENT.~~

- ~~(1) A child may be considered to be deprived of parental support/care when at least one of two parents living in the home is incapacitated. Incapacity is deemed to exist when one parent has a physical or mental defect, illness, or impairment. The defect, illness, or impairment must:~~
  - ~~(a) Be supported by competent medical testimony;~~
  - ~~(b) Be of such a debilitating nature as to reduce substantially, or eliminate the parent's ability to support or care for the otherwise eligible child; and~~
  - ~~(c) Be expected to last for a period of at least 30 days.~~

~~NOTE: In making the determination of ability to support the Department of Human Services shall take into account the limited employment opportunities for handicapped individuals~~

- ~~(2) Making a Determination of Incapacity. Incapacity shall be determined as follows:~~
  - ~~(a) Current receipt by the parent of RSDI or SSI benefits based upon disability or blindness is acceptable proof of incapacity for AFDC purposes. However, eligibility for RSDI or SSI benefits is not necessary to prove incapacity. Incapacity for AFDC purposes does not require that a defect, illness, or impairment be as severe, or last as long, as required for establishing disability or blindness for RSDI or SSI purposes.~~
  - ~~(b) Obvious incapacity can be approved in the county office for a period of up to 12 months;~~

- (c) ~~Receipt by the incapacitated person of VA 100% disability benefits based on his/her disability;~~
  - (d) ~~Receipt by the incapacitated person of Black Lung benefits based on his/her own condition; or~~
  - (e) ~~All other claims of incapacity must be forwarded to the Medical Evaluation Unit (MEU).~~
- (3) ~~Review/Redetermination of Incapacity — Six-month Review/Redetermination. The RSDI/SSI disability status must be reverified at each six month case review. When the parent's RSDI/SSI payment is terminated and the parent claims continued AFDC eligibility based on incapacity, it will be necessary to establish incapacity through the Medical Evaluation Unit (MEU). Terminated RSDI/SSI individuals may continue eligible as incapacitated while the necessary information is being secured and submitted to the MEU. If the client fails to cooperate without good cause or refuses to cooperate, the case must be closed.~~
- (4) ~~Periods of Incapacity for AFDC.~~
- (a) ~~The period of incapacity established by the Medical Evaluation Unit (MEU) is subsequent to the period of incapacity approved by the county. Verification of continued incapacity must be made at the end of the MEU approval period if continued incapacity is claimed.~~
  - (b) ~~On applications/reapplications denied by the MEU but approved on the local level, the MEU's decision of nonapproval is effective at the end of the approval period made by the county. The case will then be closed by the county office without being resubmitted to the MEU unless additional new medical information is available.~~
  - (c) ~~For active incapacity cases denied by the MEU, the case will be closed as soon as adverse notification procedures permit.~~
  - (d) ~~If there is any indication the client is no longer incapacitated, the complete medical file will be resubmitted to the MEU with current medical-social information including the facts which indicate that incapacity no longer exists.~~

Authority: T.C.A. §§ 71-3-102 and 71-3-106; and 45 C.F.R. 232.11, 232.12, and 233.90(c)(1)(iv).

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed October 28, 1991; effective January 29, 1992. Repeal and new rule filed January 31, 1995; effective April 15, 1995.

#### **~~1240-01-03-.31 ABSENCE.~~**

- (1) ~~Eligibility Requirements.~~
- (a) ~~To be eligible for AFDC, a child must be determined to be deprived of parental support/care due to death, incapacity, or absence of a parent or unemployment.~~
  - (b) ~~Reserved for future use.~~
  - (c) ~~As a condition of his/her own eligibility to be included in an AFDC aid group, the remaining parent or other applicant/grantee relative must give required information about the absent parent(s) and cooperate with the IV-D agency as necessary.~~

- (d) ~~If the facts establish that the allegedly absent parent has a separate living arrangement from the child(ren) for whom AFDC is requested, absence can be considered to exist.~~
- (2) ~~Absence from the home may exist due to any of the following:~~
- (a) ~~Divorce of natural parents and only one or no parent remains in the home with the child(ren);~~
  - (b) ~~Separation of parents;~~
  - (c) ~~Desertion of one or both parents;~~
  - (d) ~~Imprisonment of one or both parents;~~
  - (e) ~~Institutionalization of one or both parents;~~
  - (f) ~~A parent(s) is serving a court-imposed sentence of unpaid public service while residing at home;~~
  - (g) ~~Single parent adoptions.~~
- (3) ~~When Absence Exists.~~
- (a) ~~Absence exists if any one of the parental functions (maintenance, physical care, or guidance to the child) is interrupted because the parent is outside the home. If the parent is living outside the child's home, "absence" will be presumed, unless there are unusual circumstances which indicate that the parent's ability to provide maintenance, physical care, and guidance all remain uninterrupted. The parent may be absent for any reason, and may have left only recently or sometime previously. The reason for the absence does not affect the family's eligibility for AFDC, unless the parent is absent due to service in uniformed services. The absent parent may still maintain a relationship with the dependent child and is encouraged to do so.~~
  - (b) ~~"Absence" Due to Court-Imposed Unpaid Public Service~~
    - 1. ~~A child is to be considered deprived of parental support and/or care by reason of continued absence from the home when:~~
      - (i) ~~A parent has been convicted of an offense and is under sentence of a court; and~~
      - (ii) ~~The sentence requires and the parent is performing unpaid public work or community service during working hours which totally precludes gainful employment; and~~
      - (iii) ~~The parent is permitted by the court to live at home while serving the sentence.~~
    - 2. ~~Reserved for future use.~~
    - 3. ~~Real and personal property belonging to the convicted parent is to be treated in accordance with 1240-01-04-.09 (2).~~

4. ~~Any unearned income except SSI belonging to the convicted parent and excess above his/her own needs will be counted as available to the family.~~
5. ~~The convicted offender living at home and performing unpaid work:~~
  - ~~(i) Cannot be included in the aid group;~~
  - ~~(ii) Cannot be the payee;~~
  - ~~(iii) Is not an AFDC applicant/recipient so is not required to register for WIN;~~
  - ~~(iv) Must not be treated as an absent parent in relation to child support requirements.~~
- (c) ~~Alleged Parent Defined. The natural father of a child born out of wedlock whose paternity has not been judicially established.~~
  1. ~~The mother or other relative applying for assistance for such a child is required to provide all the facts known to establish the identity of the father and child unless good cause exists for not doing so. The relative is also advised of services available to assist in such identification process.~~
  2. ~~Reserved for future use.~~
- (d) ~~In single parent adoptions, absence of one parent exists because there is only one parent. There are no child support requirements on these cases~~
- (e) ~~Stepparent Cases. Deprivation on basis of absence exists even though the parent who remains in the home has remarried and the stepparent is also in the home.~~
  1. ~~Reserved for future use.~~
  2. ~~To determine whether such a child is in need according to Department standards, the income of the stepparent living in the home will be deemed to be available to the stepchildren. In addition, the income of a stepparent in the military service and outstationed will be deemed to the stepchildren.~~
- (f) ~~Active Duty in Uniformed Service of the US (Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Administration, and US Public Health Service). Absence does not exist when a parent is away from the home in which a child is living (for whom AFDC is requested/received) solely by reason of the parent's performance of active duty in a uniformed service of the US. Likewise a stepparent in the uniformed service is considered as "in the home" for purposes of deeming income to the stepchildren. The A/R will be required to apply to have an allotment sent directly to him/her or to the IV-D agency if a grant is approved.~~
- (4) ~~Duration of Absence. The absence does not have to exist for a specific period of time. However, when it is evident that the absence will terminate before the application can be processed and payment made, the condition of continued absence is not met.~~
- (5) ~~Verification/Documentation. The fact of continued absence (when absence is the base for deprivation of support/care) must be considered and substantiated at each determination/redetermination of eligibility.~~

Authority: T.C.A. §§ 71-1-105(12); and 45 C.F.R. 233.90 and 233.20.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed January 30, 1984; effective March 1, 1985. Amendment filed January 31, 1995; effective May 31, 1995.

#### ~~1240-01-03-.32 CHILD SUPPORT – AFDC ONLY.~~

- ~~(1) Introduction. The Office of Child Support Services is the agency with responsibility for the administration of the Title IV-D requirements to locate absent parents, establish paternity, collect support payments, and recover any overpayments due to the family's retention of assigned support.~~
- ~~(2) Support is defined as court ordered or voluntary money payments made to, or on behalf of, any member of an AFDC assistance unit by an absent parent (legally recognized parent, or natural parent who admits paternity). Such support is assigned to the state, pursuant to state law, as a condition of AFDC eligibility. Spousal support is also assigned if it was ordered at the time of the child support order by a court.~~
- ~~(3) Conditions of AFDC Eligibility. As conditions of AFDC eligibility for him/herself, each applicant for or recipient of aid on behalf of a child must:~~
  - ~~(a) Assign to the state any rights to support from any other person that the A/R may have in behalf of any member of the aid group. This assignment includes past support rights which have accrued at the time of such assignment. There is no waiver of the assignment requirement.~~
  - ~~(b) Cooperate with the state in:~~
    - ~~1. Identifying and locating the absent parent(s);~~
    - ~~2. Establishing paternity if necessary;~~
    - ~~3. Obtaining support payments.~~
  - ~~(c) As an element of cooperation, turn over to the state any support paid directly to the applicant/recipient, whether voluntary or court ordered.~~
- ~~(4) Summary of the Treatment of Support Payments~~
  - ~~(a) When an assignment is in effect on an AFDC case, any support paid to or on behalf of the aid group members must go to the state to be disbursed by the IV-D agency in accordance with federal regulations.~~
  - ~~(b) Support may or may not be court ordered. Prior to the establishment of an order of support, the actual monthly amount of voluntary support, less the child support bonus, is tested against the grant or appropriate need standard to (re)determine eligibility. In cases of court ordered support, the court ordered amount, less the child support bonus, is tested against the appropriate need standard at the time of application, at redeterminations requested by IV-D Fiscal Services, or as required due to client retained support. Any excess amount paid over the court ordered amount of support by the absent parent is used by IV-D to reimburse arrearages owed the state and federal~~

governments for payment of the AFDC grant. If there are no arrearages, the overage is credited to "futures" to be used for reimbursement purposes as needed.

- (c) ~~If the support payment, less the child support bonus, is insufficient to meet the family's needs by DHS grant standards, the family receives the full AFDC grant to which it is entitled, disregarding the support. The support payment is used to reimburse state and federal AFDC funds expended on the family.~~
- (d) ~~If the support payments do meet the needs of the family (or children), the AFDC grant must be terminated.~~
- (5) ~~AFDC Cases Subject to Support Procedures. Any AFDC assistance case in which eligibility is based upon absence of a parent is subject to child support requirements and will be referred to the IV-D agency upon approval of the AFDC grant and at the time of an addition of a child(ren) to the aid group. Grants which include only a pregnant woman who would be eligible for AFDC if the child was born must also be referred to IV-D. The following types of cases are exempt from support processes and are not referred to the IV-D agency even where eligibility is based on absence:~~
  - (a) ~~"Caretaker Only" cases in which the needy child is an SSI recipient.~~
  - (b) ~~"Medicaid Only" recipient/cases for dependent children age 18-21 years old.~~
  - (c) ~~Absence due to court ordered public service in lieu of incarceration.~~
  - (d) ~~Single parent adoptions.~~
- (6) ~~Reserved for future use.~~

Authority: ~~T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 231.11, 232.12, and 302.51.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed September 19, 1985; effective December 14, 1985.~~

#### **~~1240-01-03-.33 REFERRALS BY IV-A TO THE IV-D AGENCY.~~**

- (1) ~~Referrals by IV-A to the IV-D Agency.~~
  - (a) ~~AFDC: Upon approval of AFDC for a case which is subject to child support procedures, pertinent information will be referred to the IV-D agency where it will be used in locating the absent parent(s), establishing paternity, obtaining and enforcing support orders, and/or redirecting support payments to this department.~~
  - (b) ~~Reserved for future use.~~

Authority: ~~T.C.A. §§ 14-8-104 and 14-8-106; and 45 C.F.R. 232.13, 235.70, 302.31(a)(3)(ii), 303.80(b)(c)(d)(e)(f), and 233.90(b)(4).~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.~~

#### **~~1240-01-03-.34 ASSIGNMENT OF SUPPORT RIGHTS—AFDC ONLY.~~**



~~As a condition of his/her eligibility, the AFDC applicant/recipient must assign to the state any rights to support on behalf of all members of the AFDC aid group. Tennessee law specifies that receipt of AFDC in fact constitutes an automatic assignment of ongoing and accrued support rights. The assignment requirement cannot be waived, thus the IV-D sanctions must be applied to the case if a client refuses to assign support rights. A client may choose not to request assistance for a child for whom he/she does not wish to assign support rights. Sanctions are not applicable as long as the client assigns support rights on behalf of all children included in the aid group and cooperates as previously specified.~~

- ~~(1) Notice to the AVR of the Assignment Requirement. A written and verbal explanation of this eligibility requirement and the sanctions for refusal must be given to each AFDC applicant to whom the requirement applies. The client's signature on Form HS-0755 serves as acknowledgment that he/she understands that support rights on behalf of all members of the aid group are automatically assigned to the state if assistance is granted.~~
- ~~(2) Refusal to Assign Support Rights.~~
  - ~~(a) If an applicant/recipient refuses to assign support rights, his/her signature on Refusal of Assignment of Support Payments is required and sanctions will be applied.~~
  - ~~(b) Refusals to assign are reported to the IV-D agency.~~
  - ~~(c) Reserved for future use.~~
  - ~~(d) Although the IV-D agency cannot take IV-D support action on a case involving refusal to assign, the state may still attempt to collect child support as reimbursement for the AFDC grant under existing state laws.~~

~~Authority: T.C.A. §§ 14-8-106 and 14-8-124; and 45 C.F.R. 224.50 and 232.11.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.~~

#### **~~1240-01-03-.35 COOPERATION IN CHILD SUPPORT ACTIVITIES.~~**

~~Cooperation in obtaining support and establishing paternity is a condition of AFDC eligibility for each applicant/recipient unless good cause for refusal to cooperate is established in accordance with criteria set out below. The determination of whether a client has refused to cooperate and when good cause exists for a waiver of the cooperation requirement is an eligibility function.~~

- ~~(1) Cooperation Requirements. Each AVR is required to cooperate by engaging in any activity or providing information necessary for child support enforcement, including but not limited to the following:~~
  - ~~(a) Assisting in identifying and locating the absent parent of each child in the aid group;~~
  - ~~(b) Assisting in the establishment of paternity for each AFDC child for whom this service is appropriate;~~
  - ~~(c) Assisting in obtaining support for each member of the aid group;~~
  - ~~(d) Appearing for scheduled interviews as necessary to provide relevant verbal or written information or documentary evidence;~~

- (e) ~~Appearing as a witness in court or other hearings or proceedings if necessary;~~
  - (f) ~~Providing information, or attesting to lack of information, under penalty of perjury;~~
  - (g) ~~After assigning support rights, turning over to DHS any and all support payments which are covered by the assignment and are received directly by the A/R either from the absent parent or through a court or other third party.~~
- (2) ~~Notice to the Applicant/Recipient. At application, a written and verbal explanation of the requirement for cooperation with child support activities and the penalties for refusal to cooperate will be provided in addition to information regarding the client's right to claim good cause for refusal to cooperate. If the client claims good cause for non-cooperation or requests further clarification, he/she shall be given a further written notice describing the circumstances and evidence necessary for a good cause determination.~~
- (a) ~~Acknowledge of Notice.~~
    - 1. ~~The client's signature acknowledges that he/she understands:~~
      - (i) ~~That support rights are assigned to the state;~~
      - (ii) ~~Any support payments received by the client after approval of the AFDC grant must be turned over to DHS; and~~
      - (iii) ~~How to forward such payments to DHS.~~
    - 2. ~~The good cause notice will be completed, signed, and dated only if the client actually claims good cause.~~
- (3) ~~Refusal to Cooperate.~~
- (a) ~~It is the responsibility of the Department to determine if a client has failed or refused to cooperate.~~
  - (b) ~~Reasonable judgment will be exercised in determining whether there has been willful non-cooperation or extenuating circumstances.~~
  - (c) ~~If the client has refused to cooperate, the Department will apply the sanctions to the case (unless there is good cause for the lack of cooperation) and notify the client of the action.~~
  - (d) ~~Failure to cooperate (without good cause) and the resultant application of sanctions to the case do not preclude support actions on the case by the IV-D agency as long as the assignment is in effect.~~

Authority: ~~T.C.A. §§ 14-8-106 and 14-8-124; and 45 C.F.R. 232.12, 232.41, and 235.70.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.~~

#### **~~1240-01-03-.36 GOOD CAUSE FOR REFUSAL TO COOPERATE.~~**

~~A client claiming good cause for refusal to cooperate has the burden of establishing the existence of a good cause circumstance.~~

- ~~(1) Client Requirements. To establish good cause, the client will be required to:~~
  - ~~(a) Specify the circumstances which he/she believes provide sufficient good cause for non-cooperation;~~
  - ~~(b) Substantiate the good cause circumstances; and~~
  - ~~(c) If requested, provide sufficient information to permit an investigation.~~
- ~~(2) Good Cause Circumstances. Only when one of the following circumstances is substantiated will it be determined that the client's cooperation is against the best interests of the child and there is good cause for refusal to cooperate:~~
  - ~~(a) The client's cooperation is reasonably anticipated to result in physical or serious emotional harm to the child for whom support is to be sought; or~~
  - ~~(b) The client's cooperation is reasonably anticipated to result in physical or serious emotional harm of such nature or degree that it reduces such person's capacity to provide adequate care for the child; or~~
  - ~~(c) Proceedings to establish paternity or collect support in the particular case would be detrimental to the child because the child was conceived as a result of incest or forcible rape; or~~
  - ~~(d) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or~~
  - ~~(e) The client is currently (for a period of not more than 3 months) being assisted by a public or licensed private social agency to decide whether to keep the child or relinquish for adoption.~~
- ~~(3) Proof of Good Cause Claims.~~
  - ~~(a) The decision of good cause will be based upon evidence supplied by the client within 20 days after the claim is made. Only in exceptional situations will the Department grant a client's request for an additional period of time. Otherwise, the claim will be denied.~~
  - ~~(b) The determination may be based upon an investigation by the Department in certain limited circumstances: in cases of anticipated physical harm when the A/R states there is no documentary evidence; and in cases where the evidence submitted by the A/R is questionable and so requires further verification and/or investigation.~~
  - ~~(c) Corroborative Evidence.~~
    - ~~1. Documentary Evidence. Evidence submitted by the client will be carefully evaluated to determine whether it actually verifies the claim. The following types of evidence may be used to substantiate a good cause claim:~~

- (i) ~~Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;~~
  - (ii) ~~Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;~~
  - (iii) ~~Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the absent parent might inflict physical or emotional harm on the child or caretaker relative if cooperation is required;~~
  - (iv) ~~Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought, or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child;~~
  - (v) ~~A written statement from a public or licensed private social agency that the A/R is being assisted by the agency to resolve the issue of whether to keep the child or relinquish for adoption; and~~
  - (vi) ~~Notarized statements from individuals other than the A/R with knowledge of the circumstances on which the good cause claim is based.~~
2. ~~Emotional Harm Documentation. For every good cause determination based in whole or in part upon anticipated emotional harm to the child or caretaker, the following points will be considered:~~
- (i) ~~The present emotional state of the individual;~~
  - (ii) ~~The emotional health history of the individual;~~
  - (iii) ~~The intensity and probable duration of the emotional impairment;~~
  - (iv) ~~The degree of cooperation to be required; and~~
  - (v) ~~The extent to which the child will be involved in the paternity establishment or support enforcement activity.~~
3. ~~Securing Documents. Upon request, the Department will advise the A/R how to obtain the necessary documents and will provide reasonable assistance in obtaining specific documents which the client is not able to obtain.~~
4. ~~Additional Information Required. If an examination of the evidence indicates that additional information is necessary in order to make a decision, the Department will promptly notify the client, specifying the type of document which is needed.~~
5. ~~Documentary Evidence Not Available – Physical Harm.~~
- (i) ~~An investigation will be conducted when a good cause claim of anticipated physical harm appears credible without substantiating evidence and such evidence is not available.~~

- (iii) Reserved for future use.
- 6. Documentary Evidence Insufficient for Determination. If the A/R's statement and the evidence submitted do not provide a sufficient basis for making a decision, the Department may further verify the claim and, where necessary, conduct an investigation. The investigation may include contact of the absent parent if necessary for a determination. Prior to such contact, however, the client will be notified so that he/she may:
  - (i) Present additional corroborative evidence to make the contact unnecessary;
  - (ii) Withdraw the application for assistance or have the case closed; or
  - (iii) Have the good cause claim denied.
- (4) Granting or Continuation of Assistance During Good Cause Determination. If the client has complied with the requirements for providing corroborative evidence, assistance shall not be denied, delayed, or discontinued pending the determination of whether or not good cause for refusal to cooperate exists.
- (5) Decisions on Good Cause Claims.
  - (a) Time Standards for Processing Claim.
    - 1. A final decision on each good cause claim must be made within 45 days of the date the claim is made.
    - 2. The time standard may be exceeded only if:
      - (i) information required to verify and/or investigate the claim could not be obtained within the time standard; or
      - (ii) the client was granted additional time to secure evidence.
    - 3. The client must be advised promptly in writing of the decision and the basis for the determination.
  - (b) Approval of Good Cause Claim. If the evidence and/or the investigation substantiate that good cause exists, the Department will notify the client, advising him/her that the Office of Child Support Services will not proceed with any activities to establish paternity and/or secure support in relation to the particular absent parent and child(ren) as long as the good cause circumstances exist.
  - (c) Periodic Review of Approved Good Cause Claims. The decision will be reviewed at each eligibility redetermination only if the original decision was based on a circumstance that is subject to change.
  - (d) Denial of Good Cause Claim.
    - 1. A good cause claim may be denied if:

~~6. Documentary Evidence Insufficient for Determination. If the A/R's statement and the evidence submitted do not provide a sufficient basis for making a decision, the Department may further verify the claim and, where necessary, conduct an investigation. The investigation may include contact of the absent parent if necessary for a determination. Prior to such contact, however, the client will be notified so that he/she may:~~

- ~~(i) Present additional corroborative evidence to make the contact unnecessary;~~
- ~~(ii) Withdraw the application for assistance or have the case closed; or~~
- ~~(iii) Have the good cause claim denied.~~

~~(4) Granting or Continuation of Assistance During Good Cause Determination. If the client has complied with the requirements for providing corroborative evidence, assistance shall not be denied, delayed, or discontinued pending the determination of whether or not good cause for refusal to cooperate exists.~~

~~(5) Decisions on Good Cause Claims.~~

~~(a) Time Standards for Processing Claim.~~

1. ~~A final decision on each good cause claim must be made within 45 days of the date the claim is made.~~
2. ~~The time standard may be exceeded only if:~~
  - (i) ~~information required to verify and/or investigate the claim could not be obtained within the time standard; or~~
  - (ii) ~~the client was granted additional time to secure evidence.~~
3. ~~The client must be advised promptly in writing of the decision and the basis for the determination.~~

~~(b) Approval of Good Cause Claim. If the evidence and/or the investigation substantiate that good cause exists, the Department will notify the client, advising him/her that the Office of Child Support Services will not proceed with any activities to establish paternity and/or secure support in relation to the particular absent parent and child (ren) as long as the good cause circumstances exists.~~

~~(c) Periodic Review of Approved Good Cause Claims. The decision will be reviewed at each eligibility redetermination only if the original decision was based on a circumstance that is subject to change.~~

~~(d) Denial of Good Cause Claim.~~

- ~~1. A good cause claim may be denied if:~~

- (i) ~~The client has not furnished evidence within 20 days and has not requested assistance in obtaining the evidence nor requested and been granted an extension of the time limit;~~
  - (ii) ~~The evidence submitted does not substantiate the claim and the client has not submitted additional evidence which does corroborate it;~~
  - (iii) ~~The client has not provided information necessary for an agency investigation if this is needed; or~~
  - (iv) ~~Documentary evidence or agency investigation substantiate that the claim is not valid.~~
2. ~~If the decision is that good cause does not exist, the client will be notified of the decision and given an opportunity to cooperate, withdraw the application for assistance, or have the case closed. In the event of continued refusal to cooperate, the IV-D sanctions will be applied to the case.~~
3. ~~A redetermination of a previously denied claim of good cause will be made only if there is new documentary evidence or information provided which indicates a need for further action or investigation. A client who has been penalized for failure to cooperate after his/her good cause claim was denied must remain under penalty unless good cause is later substantiated (or the client demonstrates willingness to cooperate).~~
- (6) ~~Coordination with the IV-D Agency. The IV-D agency will be kept advised of good cause activities on approved AFDC cases.~~
- (a) ~~Reserved for future use.~~
  - (b) ~~Reserved for future use.~~
  - (c) ~~Reserved for future use.~~
1. ~~Reserved for future use.~~
2. ~~If an appeal is filed on this issue, this information will be included on the notice to the client.~~

Authority: ~~T.C.A. § 14-8-106; and 45 C.F.R. 232.11 and 232.40 through 232.47.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983.~~

#### **~~1240-01-03-.37 CHILD SUPPORT SANCTIONS.~~**

- (1) ~~If a caretaker relative fails or refuses to comply with either the assignment requirement or, without good cause, the cooperation requirement, the following penalties must be applied to the case:~~
  - (a) ~~The caretaker relative will not be included in the aid group;~~

- ~~(b) Eligibility for and amount of AFDC assistance for the children will be determined without regard to the needs of the caretaker relative;~~
  - ~~(c) Any AFDC assistance payment for which the children remain eligible must be made to a protective payee, if one can be identified.~~
- ~~(2) Notice to the A/R. The application of sanctions to a case for refusal to assign support rights or to cooperate in support activities will be accompanied by advance notice.~~
- ~~(3) Special Situations. Application of sanctions in the event of refusal/failure to comply will vary due to the special circumstances of these cases:~~
  - ~~(a) Protective Payment Already Established~~
    - ~~1. WIN sanction case—No further penalty can be applied to the case. The client will be advised of the concurrent IV-D sanction since compliance with only the WIN requirements would not remove the penalties unless there is also compliance with IV-D.~~
    - ~~2. Other protective payee cases—The AFDC grant will be computed without regard to the needs of the caretaker relative and the client will be given appropriate notice of the action.~~
  - ~~(b) Non-Caretaker Cases.~~
    - ~~1. Minor parent—If a minor parent receiving AFDC for his/her child in a non-caretaker grant refuses to comply with support requirements on behalf of his/her child, a protective payment will be established for the child's grant. Penalties related to treatment of minor parent's income will also be enforced.~~
    - ~~2. Non-caretaker cases. The possibility of establishing a protective payee is explored if the children remain eligible after the grant is computed without regard to the needs of the caretaker relative.~~
- ~~(4) Discontinuance of Sanctions.~~
  - ~~(a) Support sanctions will be removed if the client demonstrates willingness to comply by taking whatever action he/she has previously refused or failed to do. The protective payment arrangement will be dissolved and the caretaker's needs will be considered in the AFDC budget retroactively to the date on which the required action was taken.~~

~~Authority: T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 232.11 and 234.60 (a)(13).~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed September 19, 1985; effective December 14, 1985.~~

#### ~~1240-01-03-.38 BUDGETING PROCEDURES.~~

- ~~(1) AFDC Applications.~~

- (a) ~~Support from an absent parent is considered as currently available income in the initial determination of eligibility. Support payments, less the child support "bonus", are used to test eligibility. If the family is eligible, a grant is approved excluding the support.~~
- (b) ~~Support received during the period the application is pending may be retained by the family and counted as income in determining the amount of the retroactive payment due the family. The client must forward support payments to the state beginning with the first payment received after being notified of the AFDC approval. Any support received and retained after approval is subject to IV-D recovery.~~
- (2) ~~Active cases. For active AFDC cases not under sanctions, AFDC eligibility is computed without regard to support payments except in the following types of cases:~~
  - (a) ~~If the client or IV-D reports (or the worker discovers) that support is being received directly by the A/R, the following actions will be taken depending on the circumstances:~~
    - 1. ~~If the A/R refuses to agree to submit any subsequent support payments to the State Office, the worker will compute a budget less the child support bonus to determine continuing eligibility and apply sanctions for failure/refusal to cooperate (under rule 1240-01-03-37).~~
    - 2. ~~If the A/R agrees to submit future support payments to the State Office, no further action is taken in this regard unless the support causes ineligibility, or unless the applicant/recipient later refuses to cooperate with recovery efforts.~~
  - (b) ~~When support collections equal or exceed the grant amount, a redetermination of eligibility will be made within 30 days. Budget calculations will be based on the R.R.S. minus the voluntary/court ordered amount of the support after deduction of the child support bonus, plus other net countable income. The total amount of any retained voluntary support minus the child support bonus is counted in this redetermination. The ordered amount or the actual amount of support collected, whichever is less, is counted in this redetermination when the retained support is court ordered. Collections made prior to 10/1/82 will be retained by IV-D pending action of IV-A, to be disbursed to the family or individual(s) following closure. Collections made 10/1/82 and later will be retained by IV-D for reimbursement of the AFDC grant received by the family during the month of the support collection that causes ineligibility. If the Department terminates the grant, only the excess of the court ordered amount of the collection over the grant amount will be paid to the family from these particular collections.~~
  - (c) ~~Collections in excess of the court ordered amount, over the grant amount or CNS are counted as income if received by an active case.~~
- (3) ~~Reapplications/Cases Closed Due to Support Collections.~~
  - (a) ~~Support by an absent parent paid irregularly may result in reapplication quickly following case closures.~~
  - (b) ~~Terminations/removals due to support collections made 10/1/82 and later allow reapproval of a case/individual effective the month of closure/removal if reapplication is made during that time and no subsequent support is received by the family.~~
  - (c) ~~Support collections (court ordered amount) made prior to 10/1/82 which cause ineligibility will be forwarded to the family following case closure/removal of individual(s)~~



~~from the aid group. Application of benefits for these particular individual(s) during the initial month of closure must be denied.~~

~~(4) Sanctioned Cases.~~

- ~~(a) For cases under penalty for refusal to assign support rights or failure to cooperate, any support payments received by the client must be included as income in the budget for the children until such time as the client complies with the eligibility requirements (or, in the case of failure to cooperate, until such time that the IV-D agency advises that payments have been rerouted to DHS).~~
- ~~(b) Reserved for future use.~~

~~Authority: T.C.A. §§ 14-1-105 and 14-8-106; and 45 C.F.R. 232.11, 232.12, and 234.60.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 23, 1983; effective September 22, 1983. Amendment filed September 19, 1985; effective December 14, 1985.~~

~~**1240-01-03-.39 TREATMENT OF SUPPORT PAYMENTS.**~~

- ~~(1) When an assignment is in effect on an AFDC case, any support paid on behalf of the aid group members must go to the state to be disbursed by the IV-D agency in accordance with Federal regulations.~~
- ~~(2) If the payments are insufficient to meet the family's (or individual children's) needs by DHS grant standards, the family receives the full AFDC grant to which it is entitled, disregarding the support, which is used to reimburse state and Federal AFDC funds expended on the family. In those few cases in which the family's ratably reduced need is greater than the state's maximum payment, a portion of the monthly collections on a case may be sent to the family to meet any budgetary deficit.~~
- ~~(3) If the payments do meet the needs of the family (or child), the AFDC grant must be terminated (or the child removed from the grant), and the support payments will then go to the family. Should payments not continue at a level sufficient to meet the family's (or child's) needs, the client may reapply for AFDC.~~

~~Authority: T.C.A. § 14-8-106 and 45 C.F.R. 232.20.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

~~**1240-01-03-.60 STRIKERS—AFDC ONLY.**~~

~~(1) Definitions.~~

- ~~(a) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted showdown or other concerted interruption of operation by employees.~~
- ~~(b) The term "participating in a strike" means an actual refusal in concert with others to provide services to one's employers.~~

~~(2) Eligibility Factors.~~

- (a) ~~If a parent with whom the children live is participating in a strike, the entire aid group is ineligible for as long as the parent is on strike. The parent does not have to be a member of the aid group to cause ineligibility.~~
- (b) ~~If an aid group member other than a parent is participating in a strike, that individual is ineligible for assistance as long as he/she is on strike.~~
- (c) ~~If a payment of AFDC benefits has already been made for any month(s) in which a parent or other aid group member participated in a strike as of the last day of the month, the payment (or the individual's share) for the entire month constitutes an overpayment subject to recovery.~~

~~Authority: T.C.A. § 14-8-106 and 45 C.F.R. 233.106.~~

~~Administrative History: Original rule filed August 17, 1982; effective September 16, 1982.~~

#### ~~1240-01-04-.21 POLICIES REGARDING DETERMINATION OF NET INCOME—AFDC ONLY.~~

- (1) ~~Determining net income in AFDC involves a series of steps. Certain types of income are not counted under certain circumstances. This section outlines the steps involved in determining net income and explains criteria for excluding or disregarding income. The application of sanctions in income penalty situations is also described.~~

~~Exclusion of income means the income is not counted (excluded) in determining financial eligibility based on the Gross Income Standard (GIS) test or in computing the grant amount. Examples of excluded income include relocation assistance payments, WIC benefits, reimbursements for other than basic living expenses, etc. Exclusion of a child recipient's earnings for six months in a calendar year is an example of a temporary exclusion. Certain student status may be required for this exclusion (See 1240-01-03-.19(1)2.(i)).~~

~~Disregards are only applied to earned income. Certain types of disregards are applied only after a budgeting test or a technical factor is met.~~

- (a) ~~Disregard of earnings of a child recipient who is a full-time student or part-time student and not employed full-time if the GIS test is met. The child's earnings plus the family's gross countable income are computed in this test.~~
- (b) ~~Earned income disregards of the work allowance and child/dependent care.~~
- (c) ~~\$30 disregard from each individual's earnings for 12 consecutive months if the individual is an active recipient or an applicant whose net income meets the Consolidated Need Standard (CNS) test or who has received AFDC in one of the preceding four months, and~~
- (d) ~~One third (1/3) Disregard of the remainder from each individual's earnings for four consecutive months if the same criteria is met as given for the \$30 Disregard.~~

~~The following is an outline of steps used in determining net income. The requirements in each step must be met before progressing to the next step.~~

#### ~~Steps in Determining Net Income—AFDC Only~~

~~Step 1—Exclude "Excludable Income" (See Section 1240-01-04-.15).~~

- ~~Step 2— Compare total countable gross income (earned and unearned) to the GIS (185% of CNS) for the assistance unit size.~~
- ~~Step 3— Disregard earnings of a child recipient with student status (full-time student or part-time student not employed full-time).~~
- ~~Step 4— Apply applicable disregards to earnings of each individual in this order:-~~
- ~~-Work Allowance of \$75 for full or part time employment.-~~
  - ~~-Child/Dependent Care deduction up to \$160 per child/dependent per month.~~
- ~~Step 5— For applicants, compare net earnings plus other income to the CNS for assistance unit size.~~
- ~~Step 6— For recipients and applicants (meeting the criteria in Step 5 or who received assistance in at least one of the four preceding months) and are entitled according to the consecutive month rules and the 12 month rules, disregard from each individual's earnings:-~~
- ~~-\$30 of net earnings for up to 12 consecutive months and-~~
  - ~~-1/3 of the remainder for up to 4 consecutive months~~
- ~~Step 7— Add net earned income to total countable unearned income for all members of the assistance unit.~~
- (2) ~~Criteria for the \$30 Disregard and the 1/3 Disregard. The \$30 and/or 1/3 are two different disregards. There are two different lengths of time for applying them but other criteria are the same for both.~~
- ~~(a) Consecutive Months Rule for \$30 Disregard. The \$30 disregard is applied to the earnings of each eligible individual for a maximum of twelve (12) consecutive months.~~
  - ~~(b) Consecutive Months Rule for 1/3 Disregard. The 1/3 disregard is applied to the remainder (after the \$30 disregard) of each eligible individual's earnings for a maximum of four (4) consecutive months.~~
  - ~~(c) Interruption of the receipt of the \$30 and/or 1/3 disregards starts the count of the consecutive months again except:~~
    - ~~1. In penalty situations whereby the disregard(s) is/are not applied but counts as one of the consecutive months (See Penalties in following section) or~~
    - ~~2. In suspension of grant in non-penalty situations. The suspension does not interrupt accumulation of the consecutive months, nor does it count as one of the consecutive months.~~
  - ~~(d) Twelve Month Rule. An individual who has received the appropriate number of consecutive months of the \$30 and/or 1/3 disregards can not receive the disregard(s) again until she/he has been off AFDC or AFDC-MO for twelve (12) consecutive months.~~

- (e) ~~Applicants. The \$30 and 1/3 disregards can be applied to the earnings of an applicant if:~~
  - 1. ~~She/he was an AFDC recipient (including AFDC-MO) in at least one of the four months preceding the month of application and is eligible for the disregard according to consecutive months rules and the twelve month rule in (a) through (d) above; or~~
  - 2. ~~The assistance unit's income without the disregard is less than the consolidated standard and he/she is eligible for the disregard based on the criteria for the \$30 disregard and the 1/3 disregard.~~
- (3) ~~For applicants/recipients receiving earned income from regular employment or on the job training through WIN (Section 432(b)(1) of the Act), the earned income disregards are applied in the same amounts and in the same order as for other applicants/recipients.~~
- (4) ~~Earned Income Penalties. Deem the \$30 and/or 1/3 disregards as received the first month a change could be made effective if timely reported whenever one of the conditions listed below occurs. The \$30 and/or 1/3 disregards as one of the twelve/four consecutive months. The following are penalty situations during an individual's receipt of AFDC or AFDC-MO (due to the \$10 limitation):~~
  - (a) ~~The individual, without good cause, reduced earnings or terminated or refused employment. Good cause includes, but is not limited to, unsafe or unhealthily working conditions, pay at less than the federal minimum wage, lack of adequate child care, lack of transportation, etc.~~
  - (b) ~~The individual failed, without good cause, to make a timely report of income causing an overpayment. Good cause circumstances are instances such as severe illness, accident, hospitalization, natural disaster, etc. which prevent the client from making a timely report.~~
  - (c) ~~The individual voluntarily requests termination of assistance for the primary purpose of avoiding receipt of the \$30 and/or 1/3 disregards for the appropriate number of consecutive months.~~
- (5) ~~A deduction for payments for dependent care cannot be made when care is provided by:~~
  - (a) ~~The parent, stepparent, or guardian of a child;~~
  - (b) ~~A person who is a member of the assistance unit of which the dependent is a member; or~~
  - (c) ~~The spouse of the dependent.~~

~~Authority: T.C.A. §§ 14-8-106, 14-27-104; 7 CFR 273.99; 45 CFR 233.20; PL 97-35, PL 98-369 §§ 2622, 2623, 2642.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982. Amendment filed January 7, 1985; effective February 6, 1985.~~

#### **1240-01-04-.23 CALCULATING NET INCOME AND BENEFIT LEVELS – AFDC ONLY.**

- (1) ~~Reserved for future use.~~
- (2) ~~Reserved for future use.~~
- (3) ~~Reserved for future use.~~
- (4) ~~The Department has developed a consolidated standard of need based on the size of the aid group for subsistence items including food, clothing, fuel, lights, household operations, personal incidentals, medical incidentals and shelter. This standard does not necessarily represent actual costs for these items, nor does not standard include all items which might be considered "needs." It is a standard amount used for the following purposes:~~
  - (a) ~~To determine a non-responsible relative's eligibility to be included in an assistance unit; and~~
  - (b) ~~As the basis for determining the gross income standard and the standard payment amount.~~
- (5) ~~The AFDC payment does not meet 100% of need as defined by the consolidated need standard. A percentage of need is met dependent on available state and federal funds. Income available to the assistance unit (after all appropriate disregards and deductions have been applied) is subtracted from the consolidated need standard. Payment is the lesser of the resulting deficit or the percentage of the consolidated need standard currently being met.~~
- (6) ~~If an assistance unit's available income equals or exceeds the assistance unit's consolidated need, the assistance unit is not eligible for an AFDC grant. If there is a deficit of \$1.00 to \$9.99, no payment can be made, but the assistance unit is deemed to be AFDC recipients for other purposes, including Medicaid coverage, as long as all other points of eligibility continue to be met. If the deficit is \$10.00 or more and other eligibility requirements are met, payment will be made.~~
- (7) ~~Payments~~
  - (a) ~~AFDC payments are issued on a monthly basis and are paid for the current month.~~
  - (b) ~~Initial payments are made beginning with the date of application, if all other eligibility factors are met at that time, or at the first of the month in which eligibility is achieved, whichever is later.~~
  - (c)
    - 1. ~~The deficit between the consolidated need standard and any countable income but not less than \$10.00 per month; or~~
    - 2. ~~A standard payment amount for each family size, which is the percentage of the consolidated need standard for the family size which is currently being met.~~
- (8) ~~Reserved for future use.~~

~~Authority: T.C.A. §§ 14-8-106; PC 640, Public Acts of 1986; PL 97-35; 45 CFR 233.20; P.C. 918. Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982. Amendment filed December 17, 1982; effective~~

~~March 16, 1983. Amendment filed March 3, 1983; effective April 4, 1983. Amendment filed September 4, 1984; effective October 4, 1984. Amendment filed September 29, 1986; effective December 29, 1986.~~

#### ~~1240-01-04-.28 TREATMENT OF LUMP SUM INCOME -- AFDC ONLY.~~

- ~~(1) Lump sum payments which are treated as income are those non-recurring payments, retroactive or otherwise, from sources traditionally considered and treated as income.~~
  - ~~(a) Income which is subject to annualization or proration over the period of time it is intended to cover is not subject to the lump sum income provisions contained in these sections. Such income (e.g., farm income, contractual income, seasonal employment, etc.) will continue to be treated as described in rules 1240-01-04-.24 and 1240-01-04-.25.~~
  - ~~(b) Lump sum payments which are totally excluded from the determination of need (counted as neither income nor resource), or which are considered resources, are not subject to these lump sum income provisions. (See rules 1240-01-04-.01 through 1240-01-04-.15).~~
  - ~~(c) All lump sum payments not otherwise excluded are considered lump sum income, except that income tax refunds (not including earned income tax credit payments) are treated as a resource.~~
- ~~(2) Lump sum income may create a period of ineligibility for the aid group or individual members under the circumstances given below:~~
  - ~~(a) Lump sum income will result in the determination of a period of ineligibility for the entire aid group when the following conditions are met:~~
    - ~~1. The lump sum is received by a parent in the home, whether or not the parent is in the assistance unit, or child in the assistance unit; and~~
    - ~~2. The lump sum plus other countable income (appropriate disregards) exceeds the CNS for the aid group.~~
  - ~~(b) The period of ineligibility is determined by dividing the net countable income (lump sum plus other income, applying any applicable deductions/disregards) by the CNS for the aid group or individual. If the lump sum is received by a parent not in the aid group, increase the CNS by one person to determine the ineligibility period.~~
    - ~~1. The resulting quotient is the number of months of ineligibility.~~
    - ~~2. Any remainder is counted as income in the first month following the period of ineligibility if application is made.~~
    - ~~3. The period of ineligibility begins with the month of receipt of the non-recurring lump sum income.~~
    - ~~4. The overpayment for any ineligible months for which assistance was paid must be recovered.~~
  - ~~(c) Shortening the Period of Ineligibility.~~

1. ~~The period of ineligibility is recomputed for the remaining months of ineligibility in the following instances:~~
    - ~~(i) A change in need standards which would have increased the amount of grant payable to assistance unit; or~~
    - ~~(ii) The income has become unavailable due to circumstances beyond the assistance unit's control. Such circumstances include the following:~~
      - ~~(I) Mandatory expenses are incurred and paid, resulting from natural or casualty disaster losses not covered by insurance or aid from other agencies. This includes repair or replacement of home and/or essential property damaged in civil disorder or other disruption resulting in vandalism or theft of essential household furnishings.~~
      - ~~(II) Other circumstances considered life threatening by Department staff.~~
      - ~~(III) The assistance unit must provide verification that the lump sum income is unavailable due to circumstances beyond its control.~~
  2. ~~The ineligibility period is recomputed beginning with the initial month of ineligibility when the assistance unit pays or becomes responsible for medical expenses due to illness, injury, hospitalization, or death of a member of the immediate family, and the expenses are not covered by insurance, Medicaid, or other aid programs.~~
- (d) ~~The established period of ineligibility applies to those individuals who were members of the assistance unit either as applicants or recipients in the month the lump sum was received. If application is made for another individual (such as a newborn), subsequent to the month of receipt of the lump sum, the lump sum provisions do not affect his/her eligibility. In computing eligibility and benefit amount for the new individual, none of the income used to determine the ineligibility of the original assistance unit is considered.~~

Authority: T.C.A. §§ 14-1-105 and 14-8-106(2); PL 97-35, PL 98-369 §2632; 45 CFR §233.20 (a)(3)(ii)(D). Administrative History: Original rule filed December 2, 1983; effective January 1, 1984. Amendment filed January 7, 1985, effective February 6, 1985. Amendment filed September 19, 1985; effective December 14, 1985. Amendment filed October 9, 1987; effective January 27, 1988.

#### **~~1240-01-06-.01 MEDICAID COVERAGE.~~**

~~Medicaid coverage is authorized for all recipients of SSI and all recipients classified as Medicaid Only (explained in 1240-3-2-.02). Other Medicaid coverage groups are detailed in the Medicaid Services Manual.~~

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 14-3-102; 71-1-105, 71-3-152, 71-3-153 and 71-3-154; 71-3-158(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 608(a)(6)(A) and 42 U.S.C. § 1396u-1; 45 C.F.R. § 206.10; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31, 47 CFR 206.10; PL 97-35. Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982. Public Necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007.

#### ~~1240-01-06-.02 AUTHORIZING MEDICAL BENEFITS.~~

~~Medicaid eligibility begins the later of the date the signed application was received at DHS or the date the applicant is otherwise determined eligible or the date of birth of the newborn. The newborn is deemed to have applied for Medicaid and to be eligible on the date of birth if the mother is eligible for and receiving Medical Assistance at the time. Medicaid benefits continue for the newborn until the child attains age one (1).~~

~~Authority: T.C.A. §§4-5-201 et seq., 4-5-202, 71-1-105(12), 71-5-102, 71-5-106, 71-5-107, and 71-5-109; 42 U.S.C. § 1315, 42 U.S.C. §§ 1396 et seq., 42 U.S.C. 1396(a)(10)(A)(i)(III) and (IV), 42 U.S.C. § 1396a(e)(4), and 42 U.S.C. 1396a(l)(1), 45 CFR 206.10, PL 97-35, PL 98-369 §2362; TennCare Medicaid Section 1115 Demonstration Waiver.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeated and new rule filed December 10, 1981; effective January 25, 1982. Repeal and new rule filed January 7, 1985; effective February 6, 1985. Repeal and new rule filed December 11, 2007; effective February 24, 2008.~~

#### ~~1240-01-06-.04 FAMILY MEMBERS NOT COVERED BY MEDICAID.~~

~~When the only child is certified for Medicaid Only, the caretaker is not eligible to receive Medicaid benefits.~~

~~Authority: T.C.A. §14-8-106; 45 CFR 435.10 and 435.11.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-06-.06 EXTENDED MEDICAID COVERAGE.~~

~~The extended Medicaid coverage provisions are set out in Department of Human Services State Medicaid Rules at 1240-3-2-.02(2)(a)(1)(i) and (ii).~~

~~Authority: T.C.A. §§4-5-201 et seq., 4-5-202, 71-1-105(12), 71-5-102, 71-5-106, 71-5-107, and 71-5-109; 42 U.S.C. § 608(a)(11), 42 U.S.C. § 1315, 42 U.S.C. §§ 1396 et seq., 42 U.S.C. § 1396u-1 and 42 U.S.C. § 1396a(e)(1); and TennCare Medicaid Section 1115 Demonstration Waiver.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. New rule filed January 7, 1985; effective February 6, 1985. Repeal and new rule filed December 11, 2007; effective February 24, 2008.~~

#### ~~1240-01-07-.02 ELIGIBILITY FOR AFDC BENEFITS.~~

~~Once approved for an AFDC grant, the recipient continues to receive that grant until ineligible or eligibility for a different grant amount is determined. Eligibility in each AFDC and AFDC-FC case must be determined at least every six months.~~

~~Authority: TCA 14-8-106, 14-8-111, and 14-8-115; 45 CFR 206.10.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-12-.05 USES OF AN AFDC GRANT.~~

- ~~(1) General Uses. An AFDC grant is in the form of money payment or in certain instances a vendor payment made to a provider of goods and services.~~



- (2) ~~Right To Apply. Any person who wishes to apply for AFDC has the right to do so. He/she shall not be required to furnish proof of his/her eligibility before his/her application is registered. Persons capable of furnishing information regarding points of eligibility will be required to do so before assistance is granted. When persons are clearly incapable of furnishing such information, the FA staff will make reasonable efforts to obtain the facts necessary to prove each factor of eligibility.~~
- (3) ~~Recipient's Right To Control His/Her Assistance Check. The Department is not at liberty to determine for the recipient what goods and services he/she will have, by directive or by controlling in any way the use which the recipient makes of his/her assistance check. Vendor and protective payments may be made under certain circumstances.~~

Authority: ~~TCA §§14-8-106 and 14-27-104; 7 CFR 272.1; PL 97-35.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982.~~

#### **~~1240-01-14-.10 ISSUING IDENTIFICATION (ID) CARDS—FOOD STAMPS ONLY.~~**

- (1) ~~Requirements for the ID Card. The county shall issue an ID Card to each certified household as proof of program eligibility. The ID Card shall be issued in the name of the household member to whom the ATP is issued. That member and any authorized representative shall sign the ID Card prior to using it. If no authorized representative was named, the worker shall indicate on the ID Card that no designation was made. The worker shall place an expiration date only on those ID's issued to households that have been certified for delivered meals for a temporary period.~~
- (2) ~~Frequency of Issuance. The County Office shall limit issuance of ID Cards to the time of initial certification with replacement made only in instances of loss, mutilation, destruction, or changes in persons authorized to obtain or use coupons.~~
- (3) ~~Not To Be Mailed With ATP's or Coupons. ID Cards delivered to the household by mail shall not be mailed in the same envelope with an ATP or coupons.~~
- (4) ~~The household member whose name appears on the ID Card must sign the coupon books.~~
- (5) ~~ID Cards for Special Households.~~
- (6) ~~Delivered Meals. When one or more persons are determined to be eligible to use Food Stamps in payment of delivered meals, and express an intent to do so, they will be issued an ID Card which is conspicuously marked with the letter "M". Participants should be requested to advise the delivered meal service that they plan to use Food Stamps to purchase delivered meals. Persons who meet the eligibility requirements for delivered meals for only a temporary period, such as while convalescing, will have an expiration date on their ID Card.~~

Authority: ~~T.C.A. §§ 14-8-106, 14-8-108, and 14-27-10; PL 97-35; and 7 C.F.R. 273.2.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed December 10, 1981; effective January 25, 1982.~~

#### **~~1240-01-18-.03 AUTHORIZATION DOCUMENTS.~~**

~~In order for the HH/AG to receive an AFDC grant or Food Stamp allotment, the eligibility worker must complete certain forms authorizing an AFDC check or Food Stamp "Authorization To Participate" (ATP)~~

card to be issued. Most AFDC checks and ATP cards are issued by the state computerized Tennessee Welfare Integrated Service System (TWISS).

Authority: TCA §§14-8-106; 45 CFR 235.70.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.

#### ~~1240-01-18-.04 METHOD OF DELIVERY.~~

- ~~(1) AFDC checks and Food Stamps ATP cards are normally issued by the TWISS System and are usually sent by mail to the address shown on the authorization document, but may be delivered in some other manner from time to time as circumstances dictate. Checks/ATP cards are payable only to an authorized recipient or duly designated representative.~~
  - ~~(a) No benefits will be issued in care of the county office nor in care of a staff member of the Department, except when that staff member is a duly certified recipient in his own right. The only exception is when a Social Service staff member has been officially certified as a Protective Payee for an AFDC recipient.~~
  - ~~(b) Benefits shall not be mailed to "General Delivery," Post Office boxes, or in care of an address other than where the HH/AG is residing unless they specifically request that the benefits so be sent.~~
  - ~~(c) No benefits may be issued in care of a particular merchant or other business establishment.~~
- ~~(2) Reserved for Future Use.~~
- ~~(3) Proper Endorsement of AFDC Checks.~~
  - ~~(a) The check must be endorsed by the individual to whom it is made payable or by an individual to whom the payee has given power of attorney. If the payee endorses by mark, the endorsement is not a legal endorsement unless it is witnessed by two persons who actually see the payee make his mark on the check.~~
  - ~~(b) The Department does not permit a staff member to serve as a witness to an endorsement made by mark.~~

Authority: TCA §14-8-106; 45 CFR 235.70.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.

#### ~~1240-01-19-.12 TRANSFERRING INFORMATION OUTSIDE OF THE STATE -- FOOD STAMP/AFDC.~~

- ~~(1) When another state requests information regarding a Food Stamp household or AFDC aid group, the worker must promptly comply with the request.~~
- ~~(2) Reserved for Future Use.~~

Authority: TCA §14-8-106.

Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.

#### ~~1240-01-19-.14 CHANGE OF ADDRESS -- FOOD STAMP/AFDC.~~

~~It is essential that accurate addresses for all recipients be on file.~~

~~Authority: TCA §14-8-106.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-19-.15 PROCEDURES FOR CLOSING A CASE – AFDC ONLY.~~

~~When an AFDC case is closed for any reason, an explanation that the family may apply for Medicaid coverage in the Medically Needy Program is to be made.~~

~~Authority: TCA §14-8-106.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-19-.17 INCREASING A GRANT – AFDC ONLY.~~

~~When it is determined that a recipient is eligible for an increase in grant, the following actions will be taken promptly:~~

- ~~(1) Complete the form authorizing the grant increase to be submitted to Systems and Procedures.~~
- ~~(2) Complete Notice of Disposition to notify the recipient of the increase in grant.~~

~~Authority: TCA §§14-8-106 and 14-8-111.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-19-.18 DECREASING A GRANT – AFDC ONLY.~~

~~When it is established that a recipient's grant should be decreased, the following action will be taken promptly:~~

- ~~(1) Complete the form authorizing the decrease which will be submitted to Systems and Procedures.~~
- ~~(2) Reserved for Future Use.~~
- ~~(3) Attach An Informational Pamphlet To The Notice. This will serve to inform the recipient of the provisions of the assistance program, his/her right to appeal, and how to file an appeal. Give the reason or reasons for the action taken and cite the state rule number(s) supporting the decision.~~
- ~~(4) Provide the recipient a blank copy of the HS-0746 (Change Report Form) which is to be used by the recipient to report changes in his/her circumstances.~~

~~Authority: TCA §§14-8-106 and 14-8-111; 45 CFR 205.10.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-19-.19 CLOSING A CASE – AFDC ONLY.~~

~~If it has been determined the recipient is no longer eligible for assistance and the grant is being terminated, the case will be closed.~~

- (1) ~~Complete the form authorizing the closure which will be submitted to Systems and Procedures.~~
- (2) ~~Notice of Disposition will be mailed to the recipient to notify him/her of the termination of the grant and the reason or reasons for the action taken.~~
- (3) ~~When an AFDC case is closed for any reason, an explanation that the family may apply for Medicaid coverage in the Medically Needy Program is to be made.~~

~~Authority: TCA §14-27-104; 7 CFR 273.11, 273.12, 273.13, 273.14, and 273.19.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-19-.22 IMPROPERLY MANUFACTURED OR MUTILATED COUPONS – FOOD STAMP ONLY.~~

~~The Department shall provide a replacement for coupons that were received by a household but were subsequently mutilated or subsequently found to be improperly manufactured. This includes coupons accidentally mutilated by the household. The amount to be replaced shall be equal to the value of the improperly manufactured or mutilated coupons. If the worker cannot determine the value of a mutilated coupon after exhausting all available means of determining the value within the county, the worker shall send the mutilated coupons to the state office for a determination. The county office shall not replace coupons which are mutilated to such a degree that less than three fifths of the coupon is presented by the household.~~

~~Authority: TCA §14-27-104; 7 CFR 273.11, 273.12, 273.13, 273.14, and 273.19.~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-19-.23 PROCEDURES TO BE USED WHEN A/R REPORTS A LOST OR STOLEN AFDC CHECK.~~

~~When the A/R reports a lost or stolen AFDC check, Affidavit of Lost AFDC Check must be completed. This form is to be used to report lost or stolen AFDC checks and initiate the issuance of a replacement check to the recipient. It is to be executed the same month in which the payment is due. A replacement check should be in the hands of the recipient within 15 days from the date the Affidavit is signed and notarized.~~

~~Authority: TCA §14-27-104; 7 CFR 273.11, 273.12, 273.13, 273.14, and 273.19.~~

~~Administrative History: Original rule filed August 14, 1980; effective September 29, 1980.~~

#### ~~1240-01-21-.01 DEFINITIONS.~~

- (1) ~~Administrative (Agency) Error. An overpayment or underpayment caused by an error made by any representative of the Department of Human Services.~~

~~Examples of administrative errors include, but are not limited to, the following:~~

- (a) ~~Failure to take timely action on a change reported by the AU or known to this department;~~
- (b) ~~Incorrect computation of the AUs income or deductions, or authorization of an incorrect grant amount; or~~

- (c) ~~Incorrect application of policy.~~
- (2) ~~Claim. The data describing a debt due the State and the unpaid balance of that debt.~~
- (3) ~~Claim Determination Report. The report establishing and documenting an overpayment.~~
- (4) ~~Collection. The process of recovering an overpayment.~~
- (5) ~~COTS. Claims Online Tracking System. The computer system used by the Tennessee Department of Human Services to register, monitor and track AFDC, Food Stamp, and Medicaid claims, claim activity, and the collection process.~~
- (6) ~~Grant (Benefit) Reduction. Process of recovering an overpayment from an active assistance unit by withholding an amount equal to 10% of the payment standard from the monthly AFDC check.~~
- (7) ~~Improper Payment Error. An overpayment caused by a change that was reported timely but caused ineligibility for the month the change occurred.~~

Examples of improper payment errors include but are not limited to the following:

- (a) ~~The assistance unit was overpaid because the recipient or legally responsible relative was on strike as of the last day of the month;~~
- (b) ~~The assistance unit was subject to monthly reporting and did not comply with the MR requirement;~~
- (c) ~~The assistance unit received sufficient income (earned and/or unearned) in the payment month to result in ineligibility; or~~
- (d) ~~The assistance unit received a lump sum payment which resulted in a period of ineligibility being established.~~
- (8) ~~Inadvertent Client Error. A misunderstanding or unintentional failure on behalf of the A/R to provide correct information or to report changes timely and accurately.~~
- (9) ~~Intentional Program Violation. A determination or adjudication of a court that an individual or group of individuals knowingly obtained benefits which they were not eligible to receive.~~
- (10) ~~Overpayment (Overage). Benefits received by an assistance unit which exceed the amount of benefits they were eligible to receive.~~
- (11) ~~Suspected Intentional Program Violation. A determination made by the agency that an overpayment has occurred because the client intentionally provided information that was possibly incorrect or misleading.~~
- (12) ~~Underpayment. Benefits received by an assistance unit that are less than the amount of benefits they were eligible to receive.~~

Authority: ~~TCA §14-8-106 and 45 CFR 233.20(a)(13).~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.~~

#### **~~1240-01-21-.02 LEGAL PROVISIONS.~~**

~~Title IV-A, Section 402(a)(22) of the Social Security Act and federal regulations 45 CFR 233.20(a)(13), require prompt recovery of overpayments and correction of underpayments. TCA §14-8-120 provides for criminal prosecution of individuals who fraudulently receive AFDC benefits to which they are not entitled.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13).~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.~~

#### **~~1240-01-21-.03 POLICY STATEMENT.~~**

~~A claim must be established against any assistance unit that received more AFDC benefits than they were eligible to receive, regardless of the reason for the overpayment. Corrective action must be taken to restore benefits retroactively any time an underpayment for a prior period is discovered when the assistance unit is currently eligible for and receiving benefits, or would be if the error causing the underpayment had not occurred. The Department of Human Services must correctly determine eligibility for AFDC benefits and provide the correct grant to each assistance unit.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13).~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.~~

#### **~~1240-01-21-.04 CORRECTION OF AFDC UNDERPAYMENTS.~~**

~~An AFDC underpayment occurs when an assistance unit receives less assistance than they were entitled to because of:~~

- ~~(1) Incorrect application of policy by the Department of Human Services; or~~
- ~~(2) An error in calculating or processing benefits.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.~~

#### **~~1240-01-21-.05 ESTABLISHING THE AFDC OVERPAYMENT.~~**

~~A claim must be established against any assistance unit which has received an AFDC overpayment. Overpayments may occur as a result of:~~

- ~~(1) Administrative (agency) error;~~
- ~~(2) Inadvertent client error;~~
- ~~(3) Improper payment error; or~~

- (4) ~~Suspected intentional program violation.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13).~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.~~

#### **~~1240-01-21-.06 PROCEDURES FOR PROCESSING CLAIMS.~~**

~~Procedures for processing claims in each county are to be established by the district and county administrative staff.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13).~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.~~

#### **~~1240-01-21-.07 ESTABLISHING THE PERIOD AND AMOUNT OF THE OVERPAYMENT.~~**

- ~~(1) The policies and need/payment standards that were in effect during the time the overpayment occurred must be used to establish the period and amount of the overpayment. An overpayment can be established for any prior period if the circumstances and overpayment can be determined.~~
- ~~(2) The amount of the gross overpayment is the difference between all IV-A Benefits (AFDC cash assistance and supplemental payments) the assistance unit received and the corrected benefits they were entitled to receive. The net overpayment is calculated by COTS by reducing the gross overpayment by any IV-D reimbursements of the grant.~~
- ~~(3) Overpayment Determinations.~~
  - ~~(a) Overpayments/ineligibility due to non-financial changes begin the month a change could have been effected if timely reported by the client or if the case action had been completed timely by the Department. If a change, either reported or unreported, results in ineligibility (e.g., absent parent returns home, eligible children leave home of applicant/recipient, assistance unit acquires resources which exceed allowable limit, only child reaches 18) and the grant is not correctly adjusted the next possible month, then a claim reporting the overpayment must be prepared.~~
  - ~~(b) Income changes, either reported or unreported, that result in prospective ineligibility begin the month of the change. The month the change occurred is the month income/earnings were actually received by the applicant/recipient.~~
  - ~~(c) Income changes, either reported or unreported, that result in continued eligibility are handled in the normal prospective/retrospective budgeting methodology.~~
- ~~(4) Earned Income Penalty. In earned income situations, the earned income disregards (i.e., \$75 work allowance, child care deduction \$30 + 1/3 or \$30 disregard) are not allowed when calculating the amount of the overpayment.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). Administrative History: Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983.~~

~~Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.~~

#### ~~1240-01-21-.08 DOCUMENTATION OF THE OVERPAYMENT.~~

~~The case record must contain documentation substantiating each month of overpayment.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13).~~

~~Administrative History: New rule filed October 9, 1987; effective January 27, 1988.~~

#### ~~1240-01-21-.09 COLLECTION OF AFDC OVERPAYMENTS.~~

- ~~(1) Collection action must be initiated after the overpayment has been established and the claim prepared.~~
- ~~(2) We must recover the overpayment from:~~
  - ~~(a) The assistance unit which was overpaid; or~~
  - ~~(b) Any assistance unit of which the caretaker and/or other adult member of the overpaid assistance unit has subsequently become a member.~~
- ~~(3) The net overpayment will be collected through:~~
  - ~~(a) Grant reduction;~~
  - ~~(b) Lump sum repayment; or~~
  - ~~(c) Installment payments.~~

~~Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13).~~

~~Administrative History: New rule filed October 9, 1987; effective January 27, 1988.~~

#### ~~1240-01-22-.01 INTENTIONAL PROGRAM VIOLATIONS DEFINED.~~

~~An intentional program violation is an action by an individual for the purpose of establishing or maintaining a family's eligibility for AFDC, or for increasing or preventing a decrease in the amount of the grant, which is intentionally a false or misleading statement or a misrepresentation, concealment, or withholding of facts, or any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.~~

~~Authority: TCA §§ 71-1-105(12), 71-3-109, and 71-3-120; 42 USCA § 616; 45 CFR §§ 235.112 and 235.113.~~

~~Administrative History: Original rule filed April 15, 1993; effective May 30, 1993.~~

#### ~~1240-01-22-.02 NOTICE OF POLICY REGARDING DISQUALIFICATION PENALTIES.~~

- ~~(1) All AFDC applicants must be provided a written notice informing them of the disqualification penalties for fraud under chapter 1240-5-15 at the time of application.~~



- (2) ~~Individuals who are AFDC recipients on the effective date of this chapter must be provided such written notice no later than the next redetermination for AFDC.~~

~~Authority: TCA §§ 71-1-105(12), 71-3-109, and 71-3-120; 42 USCA § 616; 45 CFR §§ 235.112 and 235.113.~~

~~Administrative History: Original rule filed April 15, 1993; effective May 30, 1993.~~

#### ~~1240-01-22-.03 PRE HEARING INVESTIGATION REQUIREMENTS.~~

~~Prior to conducting an administrative disqualification hearing under chapter 1240-5-15, an investigation of an allegation that a person committed an intentional program violation must be conducted.~~

~~Authority: TCA §§ 71-1-105(12), 71-3-109, and 71-3-120; 42 USCA § 616; 45 CFR §§ 235.112 and 235.113.~~

~~Administrative History: Original rule filed April 15, 1993; effective May 30, 1993.~~

#### ~~1240-01-22-.04 ADMINISTRATIVE ACTIONS PENDING DISQUALIFICATION PROCEEDINGS.~~

~~Pending the outcome of a disqualification proceedings, pursuant to chapter 1240-5-15, DHS may take any necessary action to discontinue, terminate, suspend, or reduce assistance, or change the manner or form of payment to a protective, vendor, or two party payment for reasons unrelated to the reason for disqualification hearing.~~

~~Authority: TCA § 71-1-105(12), 71-3-109, and 71-3-120; 42 USCA § 616; 45 CFR §§ 235.112 and 235.113.~~

~~Administrative History: Original rule filed April 15, 1993; effective May 30, 1993.~~

#### ~~1240-01-22-.05 DISQUALIFICATION PENALTIES.~~

- (1) ~~*Scope.* An individual who, on the basis of a plea of guilty, nolo contendere (no contest), or otherwise, is found to have committed an intentional program violation after the results of an administrative disqualification hearing (ADH) or by a state or federal court will be disqualified from participating in the AFDC program. The disqualification penalty is limited to the individual(s) found guilty of having committed an intentional program violation.~~
- (2) ~~*Penalty.* An individual found to have committed an intentional program violation as set forth in this chapter shall not have his or her individual needs taken into account when determining the assistance unit's need and amount of assistance, but any resources and income of the disqualified individual will be considered available to the assistance unit.~~
- (3) ~~*Duration Of Penalty.* Upon the first occasion of any such offense, the individual's needs shall not be taken into account for six months; 12 months upon the second occasion of any such offense; and permanently upon the third or a subsequent occasion of any such offense.~~
- (4) ~~*Applicability Of Penalty.* In cases where disqualification penalties and other sanctions or penalties apply:~~
  - (a) ~~The disqualification penalty imposed under this chapter shall be in addition to, and shall not be substituted for, any other sanctions or penalties which may be imposed by law for the same offenses.~~

- (b) ~~The disqualification penalties imposed under this chapter only affect the individual concerned and cannot be substituted for other sanctions under the AFDC program (e.g., failure to participate in JOBS or to cooperate in obtaining child support).~~
- (5) ~~*Imposition Of The Disqualification Penalty.*~~
  - (a) ~~A disqualification penalty will be imposed only after the issuance of a final administrative order finding the individual guilty of committing an intentional program violation and the period of disqualification will commence no later than the second month following the date of the final order, or, in the event of a finding by a state or federal court that the individual is guilty of committing an intentional program violation, the penalty will be imposed according to the terms of the court order. If the court order is silent on imposition of the penalty, the penalty will begin no later than the second month following the date of the court order.~~
  - (b) ~~Where the individual's disqualification results from a prior receipt of AFDC and the case is closed, the disqualification will be postponed until after a reapplication for AFDC is approved.~~
- (6) ~~*Notice Of Disqualification.*~~ ~~The Department of Human Services shall cause to be sent to the individual who has been found to have intentionally violated this program by a final order as found in rule 1240-5-15 or has entered into a consent agreement as provided in rule 1240-1-22-06 a notice which contains at least the following:~~
  - (a) ~~The period of disqualification as provided for in this section;~~
  - (b) ~~The amount of payment the unit will receive during the disqualification period; and~~
  - (c) ~~In cases of an individual's disqualification resulting from a prior receipt of assistance, the disqualification will be postponed until after a reapplication for AFDC assistance is approved.~~
- (7) ~~*Stay Of Penalty.*~~ ~~Any period for which a disqualification penalty is imposed shall remain in effect, without possibility of an administrative stay, unless and until a finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which the penalty is imposed be subject to review.~~

~~Authority: TCA §§ 71-1-105(12), 71-3-109, and 71-3-120; 42 USCA § 616; 45 CFR §§ 235.112 and 235.113.~~

~~Administrative History: Original rule filed April 15, 1993; effective May 30, 1993.~~

#### ~~1240-01-22-06 COURT ACTIONS ON CONSENT AGREEMENT.~~

- (1) ~~The Department of Human Services may enter into an agreement with the local district attorneys office allowing said district attorney to enter into consent agreements with accused intentional program violators. The agreement shall be filed with a court of competent jurisdiction and approved by the court. Prior to entering into a consent agreement with the accused individual, the district attorneys office shall send advance written notice to the accused of the consequences of entering into such an agreement. The advance written notice, prepared by the Department of Human Services, shall contain at a minimum the following:~~

- (a) ~~A statement for the accused individual to sign that he or she understands the consequences of signing the agreement, along with a statement that the caretaker relative must also sign the agreement if the accused individual is not the caretaker relative;~~
- (b) ~~A statement that signing the agreement will result in a reduction in payment for the appropriate period; and~~
- (c) ~~A statement of which disqualification period will be imposed as a result of the accused individual signing the agreement.~~

~~Authority: TCA §§ 71-1-105(12), 71-3-109, and 71-3-120; 42 USCA § 616; 45 CFR §§ 235.112 and 235.113.~~

~~Administrative History: Original rule filed April 15, 1993; effective May 30, 1993.~~

#### **~~1240-01-35-.01 MEDICAID ONLY.~~**

~~There are four groups who are not eligible for an AFDC money payment but are eligible for Medicaid only:~~

- (1) ~~Those Eligible For Less Than The Minimum Grant Amount. Federal law provides that no payment shall be made in any month in which the monthly grant amount is less than \$10.00. Those in this group are deemed to be recipients of aid for all other purposes including eligibility for Medicaid as a categorically needy recipient.~~
- (2) ~~Children Ages 16 To 18 Who Are Not In School And Refuse To Register For Win.~~
  - (a) ~~Definition of Coverage Group. Medicaid Only is granted for all dependent children who are ages 16 to 18 who are not attending school and who refuse to register for WIN. All factors of eligibility must be met for this child except for school attendance, WIN registration, and Title IV-D referral.~~
  - (b) ~~Budgeting. The Medicaid Only child age 16 to 18 must meet AFDC income and resource requirements. His/her countable income is tested against the \$91 consolidated need standard for one after appropriate work expense deductions. (There is no allocation from parent to the Medicaid Only Child.) If there is no deficit, the child is ineligible for Medicaid Only. If there is a deficit, an AFDC budget is computed with the income and needs of the 16 to 18 year old being added to the income and needs of the AFDC aid group members to determine if he/she would be eligible for AFDC if school attendance and/or WIN registration requirements were met. The total income is tested against the consolidated need standard for the appropriate family size. If there is a deficit, the child is eligible as Medicaid Only. If there is no deficit, he/she is ineligible. Regardless of the Medicaid Only eligibility of the 16 to 18 year old, the computation of the AFDC grant amount for the remaining family members is a separate determination with the income and needs of the 16 to 18 year old not being considered.~~
  - (c) ~~Resources. If the 16 to 18 year old is the only member of the aid group, his/her resources may not exceed \$1,000.00. When adding the child's needs and income to the AFDC aid group's needs and income, his/her countable resources are to be added to those of the other members of the aid group. If the total then exceeds \$1,000.00, he/she is not eligible for Medicaid Only.~~
- (3) ~~AFDC Money Payment Closed Due To Increased Earnings.~~

- (a) ~~Any AFDC case which is found to be ineligible for a money payment because of increased income from employment (either a wage increase or increased hours of employment or new employment) will continue to be eligible for Medicaid benefits for four (4) calendar months beginning with the month in which the family became ineligible for assistance and even if the increased earnings is more than the Gross Income Standard provided:~~
  - 1. ~~AFDC was received for at least three out of six months immediately preceding the month of ineligibility; and~~
  - 2. ~~A member of the family continues to be employed. This does not have to be the same employed member for the entire period.~~
- (b) ~~Only those persons who were in the aid group (for money payment or Medicaid Only) can receive the extended coverage.~~
- (c) ~~The family member whose increased earnings result in termination of AFDC benefits does not necessarily have to have been a member of the aid group, but may be a legally responsible relative in the home. The four months extended Medicaid coverage begins with the first month of ineligibility for AFDC regardless of when the case was closed.~~
- (4) ~~A pregnant woman without other eligible children is eligible for Medicaid Only prior to the sixth month of the pregnancy. This coverage begins as soon as the applicant can provide verification of the pregnancy and the worker determines that she meets all other eligibility criteria.~~

Authority: ~~TCA §§ 14-8-106 and 14-3-102.~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed July 20, 1982; effective October 13, 1982.~~

#### **~~1240-01-36-.01 CARETAKER SSI CHILD.~~**

~~When application is made for AFDC for a household which includes (a) child(ren) who is/are an SSI beneficiary, the presence of the SSI child(ren) may be taken into account for purposes of qualifying the caretaker and second parent for AFDC. In such cases this child(ren) would be the only eligible child(ren) in the home if he/she were not receiving SSI. In this situation, the SSI child beneficiaries are determined to be "needy" for purposes of making the caretaker and second parent eligible for AFDC since SSI is a means tested program. The child(ren) must meet all other eligibility factors such as age, residence, deprivation, etc. and the caretaker (and second parent, if any) must meet all eligibility requirements. The income and resources of all responsible relatives must be taken into consideration. However, the needs, income, and resources of the SSI recipients would not be considered. If eligibility is determined, a grant will be authorized only for the caretaker or caretaker and second parent.~~

Authority: ~~T.C.A. § 14-8-106 and Social Security Act, Title IV-A, Section 402(a)(24).~~

Administrative History: ~~Original rule filed August 15, 1980; effective September 29, 1980.~~

#### **~~1240-01-37-.01 DEFINITIONS.~~**

- (1) ~~Application. An application shall consist of:~~

- (a) ~~The form requesting emergency assistance which is completed by the parent, other adult relative of the child, or by the state agency on behalf of the child; or~~
  - (b) ~~During the period beginning with the effective date of the State Plan on January 1, 1992 through March 31, 1993:~~
    - 1. ~~The agreement to participate in Home Ties;~~
    - 2. ~~The admission form to a psychiatric hospital;~~
    - 3. ~~A referral order from the Juvenile Court to an Assessment, Care, and Coordination Team (ACCT) for the pre-custodial assessment of a child; or~~
    - 4. ~~A referral for foster care placement for the child.~~
  - (c) ~~The documents in subparagraph (b) shall be supplemented with a confirmation of eligibility form which establishes eligibility for emergency assistance under these rules.~~
- (2) ~~Emergency. Any situation where a child under age 21:~~
- (a) ~~Has been removed from the household by court order; or~~
  - (b) ~~Has not been removed from the household by court order, but is a runaway child or has been abandoned by his or her parent(s) or relative(s); and~~
  - (c) ~~Has, as a result of either of the situations listed above in subparagraphs (a) or (b), been placed in the custody of the Department of Human Services, Department of Youth Development, Department of Mental Health and Mental Retardation, or a program or facility operated by the Juvenile Court;~~
  - (d) ~~Is in "imminent risk of removal" from the household as defined under guidelines maintained by the above departments, as established in Appendices A—C, or in the case of a Juvenile Court, is the subject of a pre-custodial order of reference by the court to any one or the above departments or the Assessment, Care, and Coordination Teams (ACCTs) based upon a pending legal proceedings before that Juvenile Court;~~
  - (e) ~~During the period from the effective date of the State Plan on January 1, 1992 through March 31, 1993, received Home Ties services, psychiatric care, pre-custodial assessment by the ACCT, or who is placed in foster care; and~~
  - (f) ~~Who in any situation listed in (a), (b), (d), or (e) within six months prior to the month in which such assistance is requested, has been living with any of the relatives specified in Attachment 2.2-A, Page 2 of the Title IV-A State Plan, i.e., parent(s), grandparent(s), adoptive parent(s), stepparent(s), sibling(s), aunt(s), uncle(s), or cousin(s).~~
- (3) ~~Household. A group of persons together consisting of a child or children together with his/her/their parent(s), grandparent(s), adoptive parent(s), stepparent(s), sibling(s), aunt(s), uncle(s), or cousin(s).~~
- (4) ~~Imminent Risk of Removal. A situation involving the likelihood of the taking of a child or children from the household by court order or other legal authority or due to private actions of the household members or the child(ren).~~

Authority: TCA 71-1-105(12); 45 CFR § 233.120.

Administrative History: Original rule filed September 1, 1993; effective November 15, 1993.

#### **~~1240-01-37-.02 ELIGIBILITY CRITERIA.~~**

- (1) ~~A family is eligible for emergency assistance if each of the following criteria is met:~~
- ~~(a) Except as set forth in 1240-1-37-.01 (1)(b) and (c), the application must be filed by the child's parent, except where both parents are absent or unwilling to apply on behalf of children who meet all other eligibility conditions, in which case another adult relative or the state agency acting on behalf of a child may file the application.~~
  - ~~(b) An emergency as defined above exists in the family and the emergency did not arise out of a parent's refusal, without good cause, to accept employment or training for employment. Except for the period from the effective date of the State Plan on January 1, 1992 through March 31, 1993, the determination of the existence of an emergency will be made within 48 hours of the application.~~
  - ~~(c) A child in an emergency situation is, or within six months prior to the month in which such assistance is requested, has been living with one or both parents or a grandparent, adoptive parent, stepparent, sibling, aunt, uncle, or cousin.~~
  - ~~(d) The applicant family is receiving AFDC, SSI, food stamps, or coverage in the month of application or does not have resources available to provide needed emergency care or services as described in 1240-1-37-.03 or 1240-1-37-.04.~~
  - ~~(e) The child's income alone is considered in the income test of subparagraph (d) when:~~
    - ~~1. the child's parents cannot be located,~~
    - ~~2. the parents refuse to cooperate in supporting the child or applying for emergency assistance, or~~
    - ~~3. the child has Home Ties services, psychiatric care, a pre-custodial assessment by the ACCT, or foster care from the effective date of the State Plan on January 1, 1992, through March 31, 1993, and such income would not have covered the entire costs of these services, and~~
    - ~~4. the emergency assistance is necessary to avoid destitution of the child or to provide or continue living arrangements in a home or child care facility.~~
  - ~~(f) The applicant is not a family or family member whose last emergency assistance authorization period began less than 12 months prior to the proposed eligibility date.~~
- (2) ~~Unanticipated income received by the family member after the emergency assistance application will not result in ineligibility or overpayment.~~
- (3) ~~Emergency assistance (EA) eligibility will be effective as of the date of application after review of the EA application by a designated EA eligibility person after verification of the listed in paragraph (1).~~

Authority: TCA § 71-1-105(12); 45 CFR § 233.120.

Administrative History: Original rule filed September 1, 1993; effective November 15, 1993.

**~~1240-01-37-.03 KINDS OF ASSISTANCE PROVIDED TO MEET EMERGENCY SITUATIONS.~~**

- ~~(1) Assistance provided to meet emergency situations shall include:
  - ~~(a) Shelter care;~~
  - ~~(b) Family foster care;~~
  - ~~(c) Residential or psychiatric group care for children separated from their parents; and~~
  - ~~(d) Food, clothing, and supervision paid at the same rates as those established by the state for the child welfare foster care program.~~~~
- ~~(2) From the effective date of the State Plan on January 1, 1992 through March 31, 1993, assistance provided shall be limited to family foster care and residential or psychiatric group care for children separated from their parents.~~
- ~~(3) The above assistance is limited to a maximum duration of 90 days or less as necessary to alleviate the emergency condition and must be authorized within a single 30-day period no less than 12 months after the beginning of the family's latest emergency authorization period.~~

Authority: ~~TCA § 71-1-105(12); 45 CFR. § 233.120.~~

Administrative History: Original rule filed September 1, 1993; effective November 15, 1993.

**~~1240-01-37-.04 KINDS OF SERVICE PROVIDED TO MEET EMERGENCY SITUATIONS.~~**

- ~~(1) As determined appropriate and necessary by the Departments of Human Services, Youth Development, Mental Health and Mental Retardation, or the Juvenile Courts, the following services may be provided to alleviate the emergency conditions to avoid out-of-home placement of a child at risk or other unusual circumstances:
  - ~~(a) Assessment;~~
  - ~~(b) Development of a plan of care;~~
  - ~~(c) Referral to and securing of community-based services;~~
  - ~~(d) Case management;~~
  - ~~(e) Counseling;~~
  - ~~(f) Home-Ties;~~
  - ~~(g) Community intervention services;~~
  - ~~(h) Wraparound services;~~
  - ~~(i) Parenting education and training;~~
  - ~~(j) Homemaker services;~~~~

- (k) Household management services;
  - (l) ~~Child care; or~~
  - (m) Child respite care.
- (2) ~~From the effective date of the State Plan on January 1, 1992 through March 31, 1993, services shall be limited to pre-custodial assessment by the ACCT and Home Ties.~~
- (3) ~~The above services are limited to a maximum duration of 90 days of service or less as determined necessary by the above Departments to alleviate the emergency condition or other unusual circumstances or to avoid out of home placement of a child, and must be authorized a single 30-day period no less than 12 months after the beginning of the family's last emergency assistance authorization period.~~

Authority: TCA 71-1-105(12); 45 CFR 233.120.

Administrative History: Original rule filed September 1, 1993; effective November 15, 1993.

#### **~~1240-01-37-.05 ACTIVITIES RELATED TO THE ADMINISTRATION OF THE EMERGENCY ASSISTANCE PROGRAM.~~**

- (1) ~~In addition to the services specified in rules 1240-1-37-.03 and 1240-1-37-.04, the Departments of Human Services, Development, Mental Health and Mental Retardation, and the Juvenile Courts will engage in activities incidental and necessary for the proper and efficient administration of the Emergency Assistance Program.~~
- (2) ~~These activities will include:~~
- (a) ~~Investigation of emergency conditions;~~
  - (b) ~~Activities supporting determination of Emergency Assistance eligibility;~~
  - (c) ~~Information and referral;~~
  - (d) ~~Case management;~~
  - (e) ~~Counseling;~~
  - (f) ~~Court-related activities and related legal services;~~
  - (g) ~~The securing of shelter and child care; and~~
  - (h) ~~Other administrative activities.~~

Authority: TCA 71-1-105(12); 45 CFR 233.120.

Administrative History: Original rule filed September 1, 1993; effective November 15, 1993.

#### **~~1240-01-37-.06 TERMINATION OF PROGRAM.~~**

~~This program shall terminate upon exhaustion of available state funding.~~

### **APPENDIX A**



**CRITERIA OF THE DEPARTMENT OF HUMAN SERVICES FOR DETERMINATION OF IMMINENT RISK OF REMOVAL OF A CHILD IN EMERGENCY ASSISTANCE APPLICATIONS**

1. The child in the family is seriously emotionally disturbed; or
2. The child is displaying behavior that puts him/her in serious conflict with his/her family, school, or community (including unruly youth and status offenders); or
3. The child has been adjudicated delinquent or has pending delinquent charges, but the child does not have pending charges for, nor has the child been adjudicated of, serious crimes against the person; or
4. The child is receiving after-care supervision from the Department of Youth Development; or
5. The child has been determined by the department's child protective services staff or the court to be abused, neglected, or dependent; and
6. In any of the above situations, a field staff person of any department, an Assessment, Care, and Coordination Team (ACCT) case manager, Home Ties specialist, or Juvenile Court judge, youth, or probation officer, has reviewed the child's status and determined that all other less intensive services within the community have been exhausted or are not sufficient to avert placement.

**APPENDIX B**

**CRITERIA OF THE DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION FOR DETERMINATION OF IMMINENT RISK OF REMOVAL OF A CHILD IN EMERGENCY ASSISTANCE APPLICATIONS**

1. The child has a history of hospitalization or out-of-home placements for serious emotional problems; or
2. The child appears, within 48 hours of contact, to be at imminent of hospitalization or out-of-home placement at state expense for his/her emotional problems; or
3. The child is seriously emotionally disturbed as evidenced by clinical diagnosis of a major mental illness; or
4. The child has functional problems of sufficient severity to result in substantial limitations of major life activities in two or more of the following categories:
  - a. Self-care at an appropriate developmental level;
  - b. Perceptive and expressive language;
  - c. Learning self-direction; or
  - d. Capacity for living in a family or family equivalent.

**APPENDIX C**

**CRITERIA OF THE DEPARTMENT OF YOUTH DEVELOPMENT FOR DETERMINATION OF IMMINENT RISK OF REMOVAL OF A CHILD IN EMERGENCY ASSISTANCE APPLICATIONS**

1. ~~A child or adolescent who is currently under the Department or Youth Development supervision; and~~
2. ~~There has been a petition filed for violation of parole or a petition for new offense has been filed; and~~
3. ~~The child untold likely enter gate custody unless intensive home and community-based services are provided.~~

Authority: TCA 71-1-105(12); 45 CFR 233.120.

Administrative History: Original rule filed September 1, 1993; effective November 15, 1993.

#### **~~1240-01-40-.01 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSD & T).~~**

- (1) ~~EPSD & T is a federally mandated service to all Medicaid recipients under age 21.~~
- (2) ~~Informing the Family. The Department is required to inform each recipient family of the availability of EPSD & T services both in writing and by a face-to-face contact. This should be done during the intake interview on applications and at redetermination on active cases.~~
  - (a) ~~Reserved for Future Use.~~
  - (b) ~~When informing a family about the EPSD & T program the worker must explain the following:~~
    1. ~~EPSD & T is provided free of charge to all Medicaid recipients under age 21.~~
    2. ~~The EPSD & T services are:~~
      - (i) ~~Health and development history~~
      - (ii) ~~Unclothed physical examination~~
      - (iii) ~~Effective January 1, 1980, developmental assessment~~
      - (iv) ~~Immunization which are appropriate for age and health history~~
      - (v) ~~Assessment of nutritional status~~
      - (vi) ~~Vision testing~~
      - (vii) ~~Hearing testing~~
      - (viii) ~~Laboratory procedures appropriate for age and population groups~~
      - (ix) ~~For children 3 years of age and over, dental services furnished by direct referral to a dentist for diagnosis and treatment~~
      - (x) ~~Treatment for defects in vision and hearing, including eyeglasses and hearing aids~~

- (xi) ~~Dental care needed for relief of pain and infections, restoration of teeth and maintenance of dental health.~~
- 3. ~~As long as the recipient under age 21 remains eligible for Medicaid, the family may request EPSD & T services.~~
- 4. ~~Preventive health services will benefit the family for the child's health and growth.~~
- 5. ~~The family or recipient may choose to receive EPSD & T services from a provider of its choice. If the provider does not offer the full range of EPSD & T services, the family or recipient can receive the services not offered if the family or recipient requests them through their local health department. Specific information on the location of the nearest providers participating in EPSD & T may be obtained from the local health department.~~
- 6. ~~After approval for AFDC, the family or recipient will receive a letter from the Department of Public Health setting up an appointment for EPSD & T services. The letter will include the address of the provider to give the services.~~
- 7. ~~Should the family or recipient need assistance with transportation, a listing is posted in the DHS Office showing free sources of transportation in their county. They may also contact their local health department for assistance with transportation.~~
- 8. ~~After tile family or recipient is screened for health problems, treatment services will be provided for problems disclosed during screening. Assistance in referral will be given for needed services which are not covered under the State Plan.~~
- 9. ~~Recipients are eligible to receive both initial and periodic screening according to the following periodicity schedule.~~

~~ALL ALL ALL ALL ALL ALL~~

~~0 30 6 15 5 11 17~~

~~DOB Days Mo. Mo. Yrs. Yrs. Yrs.~~

~~Authority: TCA § 14-8-106; 45 CFR 205.146;~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~

#### ~~1240-01-40-.02 FAMILY PLANNING.~~

- (1) ~~Family Planning Services are offered and promptly provided, directly or under arrangement with others, to all AFDC recipients (including minors who can be considered to be sexually active) who desire such services.~~
- (2) ~~Procedures. Family planning services are defined as counseling, education, and medical services to enable appropriate individuals, including minors who can be considered sexually active, to voluntarily limit family size or to space the children's births and to prevent or reduce the incidence of births out of wedlock. Family planning devices and prescriptions are provided through the Medicaid program and the local Department of Public Health. Any~~

~~required services which are a part of Title XX services should be handled by the Social Services Division. The following procedures pertain to the Family Assistance staff:~~

- ~~(a) Family planning services are offered to applicants at the time at which the application is approved or rejected and to AFDC recipients whose grants are being discontinued by mailing the family planning brochure, "It's Up To You." If the client is not capable of understanding the written material, a service worker must make a direct contact to offer family planning services. If, during any contact between a Family Assistance worker and an active AFDC recipient, it is ascertained that the client is not capable of understanding written material, a referral should be made to Social Services.~~
- ~~(b) Reserved for Future Use.~~

~~Authority: TCA § 14-8-106; 45 CFR 205.146;~~

~~Administrative History: Original rule filed August 15, 1980; effective September 29, 1980.~~