

DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM

TO: Holders of the Maine Public Assistance Manual (TANF)
FROM: Dale Denno, Director, Office for Family Independence
DATE: March 27, 2012
SUBJECT: Ch. 331, OFI MAINE PUBLIC ASSISTANCE MANUAL, Policy #92A
Introduction, page 2; Chapter I, Non-Financial Eligibility pages 21-25C;
Chapter X, page 1-2a

Attached to this memorandum please find policy statement release(s) as described below:

SUBJECT: OFI MAINE PUBLIC ASSISTANCE MANUAL Policy Changes #92A
Introduction, page 2; Chapter I, Non-Financial Eligibility pages 21-25C;
Chapter X, page 1-2a

CONTENT: See attached

EFFECTIVE DATE: April 4, 2012

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM**

TO: Program Administrators, Supervisors and Other Interested Parties

FROM: Dale Denno, Director, Office for Family Independence

DATE: March 27, 2012

SUBJECT: Ch 331, OFI MAINE PUBLIC ASSISTANCE MANUAL, Policy #92A
Introduction, page 2; Chapter I, Non-Financial Eligibility pages 21-25C;
Chapter X, page 1-2a

This policy has been **ADOPTED** effective as of **April 4, 2012**.

This rule adopts TANF Emergency Rule 92E which denies TANF cash assistance to families who have received TANF for 60 or more months and who do not qualify for an exemption or extension.

Based on comments received regarding the legislative intent of this rule the Department has made no changes to the Introduction or to Chapter X, and has made the following revisions in Chapter 1, pages 21-25a:

- Removed the caps to the number of extensions available for all except one of the extension categories. Cases granted an extension will be reviewed every 6 months and when the hardship is no longer in existence the case will close.
- Clarified the definition of what constitutes "Indian territory" in Maine
- Clarified the population who is exempt from lifetime limits
- Clarified the definition of "disability"
- Clarified what constitutes an approved education or training program
- Changed the criteria for meeting the job loss extension reason to include the loss of seasonal employment and clarified when the extension may be given
- Clarified the situations in which hardship extensions may not be granted

DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM

TO: Interested Parties

FROM: Dale Denno, Director, Office for Family Independence

DATE: March 27, 2012

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Introduction, page 2; Chapter I, Non-Financial Eligibility pages 21-25C;
Chapter X, page 1-2a

***Summary of Comments and Responses to Comments
& Explanations of Changes to the Final Rule***

Public Hearing Date: March 7, 2012
Comment Deadline: Midnight on March 19, 2012

Comments and Responses

Comment received from ____:
Rick McCarthy, Senior Advisor, Maine Community Action Association
Frank D'Alessandro, Pine Tree Legal Assistance
Wendy Rose, Women, Work and Community
Elizabeth Ward Saxl, Maine Coalition Against Sexual Assault
Julia Bell, Maine Developmental Disabilities Council
Peter Rice, Esq., Disability Rights Center
Tina Hutchinson
Daniel Unger, Cultivating Community
Laura Harper, Maine Women's Lobby
Douglas Gardner, Director, City of Portland
Sue Sharron, City of Lewiston
Maine Coalition to End Domestic Violence
Christine Hastedt & Robyn Merrill, Maine Equal Justice
Ashley Conley

Department response:
See Attached

Comment: The state law authorizing TANF was signed on May 31, 1997 therefore the Department should begin the 60-month count on June 1, 1997 rather than the date the federal government approved the Maine State Plan, November 1, 1996. (Commenter #13)

Department's Response: The Department agrees to use June 1, 1997 as the start of the 60-month lifetime limit on TANF.

At this time months on TANF are counted from the inception of the ACES computer system, December 2000. In order to count months prior to this the Department must be able to verify TANF receipt and in most cases is unable to do so. In certain situations those months will be manually added to the count if verification is present.

Comment: The rule is unclear as to whether child only grants are exempt from the count. (Commenter #13)

Department's Response : Thank you for your comment. The current rule clearly states, under Exemptions from the Time Limit, that the following are exempt from the 60-month lifetime limit:

- (i) A minor child(ren) living with a single parent who receives SSI benefits, or with two parents who both receive SSI benefits;
- (ii) A minor child(ren) living with a legally responsible non-parent caretaker relative who is not in the assistance unit

Comment: Are months on TANF as a minor child, pregnant or with a child and not the head of household counted toward the 60-month lifetime limit. (Commenter #13)

Department's Response: No, the current rule states, under Benefits Which Count Toward the Limit, that a month counts as one month toward the 60-month limit when an adult or minor parent head of household is included in the assistance unit. The Department agrees this is not clear and has clarified under Exemptions to the Time Limit.

Comments Specific to the Exemption for Certain Native Americans

One commenter noted there is a difference between the "unemployment rate" and the "percentage of adults who are not employed" in determining the Indian Territory or Trust lands that are exempt from the 60-month lifetime limit on TANF. (Commenter # 13, 2)

Department's Response: The proposed rule states the Department is using the percentage of adults who are not employed. This is consistent with federal regulations.

Comment: Bureau of Indian Affairs data used by the Department to compute the not-employed rate is out of date. (Commenter #13,2)

Department's Response: The Department is using the most current biennial Indian Service Population and Labor force Estimates Report published by the Bureau of Indian

Affairs (BIA). The rule states that a tribe may provide alternative data based on similar periods to this report if they choose.

Comment: The Department was incorrect in using the term “Indian Country” as that is not recognized in Maine. (Commenter #13)

Department’s Response: The Department has revised the wording of this exemption as follows:

(iii) an adult living in Indian Territory or Trust lands (as defined by 30 M.R.S.A. sections 6203(2-A) 6 and 9 and 7202(2)) where at least 50% of the adults were not employed. The department uses the most current biennial Indian Service Population and Labor force Estimates Report published by the Bureau of Indian Affairs (BIA), or any successor report, as default data source to determine if the not-employed rates for areas of Indian country are at least fifty percent. A tribe may provide alternative data based on similar periods to the above referenced report, to demonstrate that the not-employed rate is at least fifty percent;

Summary Comment: Most commenters urged the Department to remove the caps on extensions from the final rule. Commenter #1-13,15)

Department’s Response: There is a 60-month lifetime limit for TANF cash assistance. Extensions to the lifetime limit are available in increments of up to six months. The Department will grant an unlimited number of extensions for as long as the criteria for extension remain satisfied.

Comment: The statutory language requires the Department to consider all conditions/situations beyond the control of the adult recipient in determining whether the household qualifies for an exemption and asks for consideration in the final rule of an exemption for all months in which the adult recipient met one of the listed criteria set forth in the statute, as well as all months in which the adult recipient experienced a condition or situation existed beyond the control of the adult recipient that prevented that person from obtaining or retaining employment. (Commenter #13,2)

Department’s Response: The statute requires the Department to consider conditions/situations beyond the control of the adult recipient in determining whether a hardship exists including but not limited to those listed in statute. The Department has included in this rule multiple specific hardship extensions types as well as one that may include all other emergency circumstances that are beyond the control of the adult recipient.

Summary Comment: Most commenters recommended the Department make exemptions from the time limit retroactive to the start of the 60 month count. (Commenter # 13, 6,5,2)

Department Response: Exemptions from the 60 month time limit count are intended to be retroactive. An exemption is based on circumstances in existence during the period

of TANF receipt. Thus, if a family was exempt from the 60 month time limit count at any period during TANF receipt the clock would stop.

Summary Comments Specific to the Extension based on Domestic Violence

A commenter suggested the Department reconsider requiring a victim of domestic violence to accept a referral to a domestic violence resource center and for the center to work with the Department in creating a plan for self-sufficiency for the individual. The commenter urged the Department to protect the individual's confidentiality and right of choice by:

- making effective referrals to domestic violence resource centers to those who choose to access the service
- limit the expectation of the center to provide information to the Department to individuals who choose to provide an authorized release of information

(Commenter #13,12,2)

Department's Response: The Department appreciates these comments. It was not the intent of the rule to coerce a victim of domestic violence into accepting a referral to a domestic violence center or to jeopardize the confidentiality of the victim or the center. Thus, the Department has revised the language in the rule to read:

- a. **Domestic Violence** – An adult or minor parent head of household who is a victim of domestic violence may be eligible for an extension of up to six months. Additional incremental extensions of up to six months each may be granted.

For extension purposes, domestic violence situations are defined as follows:

Adult(s) or minor parent heads of household are currently involved in or living with the effects of a domestic violence situation, which includes one or more of the following:

1. physical acts/threats of physical injury;
2. sexual abuse of a child or caretaker of a child;
3. psychological effects of the abuse

The individual must provide reasonable and verifiable written evidence of the abuse including but not limited to:

- Court, medical, law enforcement, child protective, social services, psychological or other records that establish that the individual has been a victim of domestic violence; or
- Sworn statements from persons other than the individual with knowledge of the circumstances affecting the individual.

When an extension is granted due to domestic violence the Department will provide information about the services offered by domestic violence resource centers and

referral contact information to the individual. The Department will work with the individual to create an employment plan that includes steps to prepare for employment and economic independence as well as steps to reduce the threat of violence and increase family security. When an individual has elected to participate in service with a domestic violence resource center and with the individual's written consent the Department may request the involvement of the resource center in the development of the employment plan. Subsequent incremental extensions of up to six months each may be granted.

Comment: Victims of domestic violence should not have to engage with the Department to create a plan for self-sufficiency. (Commenter #13,2)

Department's Response: Thank you for your comment. Engagement with the Department and receipt of necessary support services may be critical to a family reaching their goal of self support and independence.

Comment: The Department should request verification to prove the need for a hardship extension only if the Department has a good faith reason to doubt the statements of the client. (Commenter #13,4,2)

Department's Response: If necessary current verification is present in the case record it will not be requested in order for a hardship extension decision to be made.

Summary Comments Specific to an Extension based on Disability

Two commenters objected to the Department's definition of disability stating it is much narrower and restrictive than the definition of disability in the ADA, Section 504 or the MHRA. (Commenter #6,5)

Department's Response – Congress chose not to exclude individuals with disabilities from TANF participation requirements and the benefits and results that accrue to working individuals and families in the TANF Final Rule.

The Administration for Children and Families encourages states to recognize that many individuals with disabilities are capable of participating in productive work activities and to explore these capabilities, rather than focusing only on their limitations.

The ADA covers individuals who vary widely in the severity of their disability, degree of incapacity, capabilities, and skills. The best path to self-sufficiency and independence must be measured on an individual basis.

The Department recognizes that we must continue to comply with relevant civil rights laws, including the ADA and Section 504 of the Rehabilitation Act of 1973 (Section 504). The Department can and must make necessary accommodations in the number of hours and types of activities that are required of individuals, if needed. But, accommodations that enable clients to work are clearly just as critical.

Summary Comment: The definition of gainful employment is not adequately defined to provide adequate guidance to staff. (Commenter #13,2)

Department's Response: Thank you for your comment. The Department has considered this and decided to retain the definition of gainful employment as currently written.

Comment: The Department should not place the responsibility of proving the disability on the individual as there may be undiagnosed or undisclosed disabilities. (Commenter #6)

Department's Response: The proposed rule clearly states that the individual requesting any extension has the primary responsibility for providing verification to support the reason for the extension. If the individual is unable to supply, or has difficulties in obtaining, the required verification the Department will assist the individual.

In addition the Department offers clients an opportunity for disability screening and an opportunity to obtain an assessment if the disclosure, screening or other factors indicate the person has or may have a disability.

Comment: The Department should assign a worker to assist those applying for disability with the process. (Commenter #5)

Department's Response: ASPIRE regional offices include support staff who assist individuals who are applying for social security disability benefits. They work to ensure follow up and track the application process for the participant.

Summary Comments Specific to Hardship Extension Based on Caring for a Disabled Family Member

Most Many commenters suggested that the Department consider dropping the requirement that a doctor verify the TANF individual is the only person who can provide care for the disabled family member. Commenter 13,6,2)

Department's Response: The Department agrees that a medical professional is unable to determine if the individual is the only one who can care for the disabled household member and has dropped this requirement.

Comment: Several commenters suggested caring for a severely disabled family member should be an exemption rather than an extension. (Commenter 13,2)

Department's Response: The Department has removed the caps on the hardship extensions. This opens the door for an individual who is caring for a severely disabled family member to remain on TANF over 60 months until the reason for the hardship no longer exists.

Comment: The extension for caring for a disabled family member should extend beyond the severely disabled child's 18th birthday. (Commenter #5)

Department's Response: During the period of a hardship extension the TANF family must continue to meet all of the eligibility requirements of TANF including the age of the child. The dependent child must be under the age of 18 unless they are a full-time student in a high school in order to continue their TANF eligibility.

Summary Comments Specific to the Hardship Extension for Participation in a Training or Education Program

Comment: Several commenters asked the Department to clarify what was meant by an approved education or training program.
(Commenter 13,8,2)

Department's Response: The Department has revised the wording of the extension as follows:

An individual, who, in the 60th month of receipt of TANF is participating in good standing in an approved education program such as vocational education training as defined in ASPIRE-TANF Program Rules Section IV., A., 1., a. may be eligible for an extension of up to six months.

This does not include:

- 1) Adult Basic Education;
- (2) General Equivalency Degree activities;
- (3) English as a Second Language; or
- (4) High School Completion.

Comments specific to the Hardship Extension Working Families:

Comment: Several commenters asked the Department to remove the requirement that the adult(s) be working 35 hours per week. (Commenter 14,8,3)

Department's Response: This extension will assist individuals who are employed at a full time level but for circumstances beyond their control remain financially eligible for TANF.

Comments Specific to the Hardship Extension for Pregnancy

Comments: Several commenters asked the Department to consider including the 2nd trimester of pregnancy and a 3-month post-partum period in this extension.
(Commenter #9)

Department's Response: The duration of this extension period is up to six months. For an individual in her 3rd trimester of pregnancy in her 60th month of TANF this time frame includes a post-partum period.

Summary Comments Specific to Hardship Extension for Loss of Job: Requested the Department remove the requirement that the individual be employed for 12 months following the closure of TANF and that the Department not exclude seasonal employment from this extension. Commenters asked the Department to remove the requirement that the job loss could not be due to job performance and that the Department clarify when this extension may be granted.
(Commenter #13,2)

Department's Response: The Department agrees to include seasonal employment when considering this extension. The Department further clarifies the intent of this extension as one for individuals who have left TANF, worked regularly and through no fault of their own, lost their job. The Department has revised the rule to read:

Loss of Job –The adult or minor parent head of household, who becomes unemployed following his/her termination from TANF as a result of the time limit, may be eligible for **an** extension of up to six months when:

- (i) The individual has been employed for at least 12 months following TANF closure as a result of the time limit; and
- (ii) The job loss was through no fault of the individual; and
- (iii) The individual has applied for unemployment benefits and would have been eligible except that (s)he has not worked for a sufficient length of time.

The extension will last for up to six months. Additional incremental extensions of up to six months each may be granted provided there is a break in TANF for at least 12 months between the two extension periods.

Summary Comments Specific to the Hardship Extension of Emergency Situation

Many commenters thought the extension for Emergency situation was too narrow and should be expanded to cover other situations that threaten the health or safety of the family.

(Commenter 13,12,11,10,9,8,6,5,4,3,2,1)

Department's Response: Thank you for your comments. The Department has added victims of violent crimes to the reasons for a hardship extension under the "Other" category. Other programs address such emergency situations as homelessness, eviction and termination of utilities.

Summary Comment: The Department should not count months of TANF-PaS assistance that have been received prior to the start of this rule.
(Commenter 3,14)

Department's Response: The Department's rules reflect an extension option for individuals in an approved education program such as vocational education training . This may apply to those participating in the PaS Program.

Other Comments

Summary Comment

Several commenters noted the Department was not clear in how extension decisions will be made when an individual has prior sanctions, IPV's or has recently quit a job or rejected a referral for employment.

(Commenter #13,2)

Department's Response: The Department has replaced the following text:

The following conditions must be considered before a family can be granted a hardship extension:

1. Whether the client received and/or rejected offers of employment or quit a job without good cause consistent with the good cause provisions; and
2. The degree to which a client has cooperated and is cooperating with their family contract amendment plan; and
3. Whether the client has ever been sanctioned or failed to cooperate or received an IPV finding

With:

Hardship extensions shall not be granted when:

1. The participant has rejected offers of employment or quit a job without good cause consistent with the good cause provisions within the last year;
2. The participant has failed to cooperate with ASPIRE, DSER, or QC within the past year resulting in two or more sanctions;
3. The participant has an Intentional Program Violation from the Department of Health and Human Services in the past 36 months following the date the IPV was established.

Summary Comment : Several commenters asked that the Department continue benefits during the Administrative Hearings process stating the TANF recipient has a property interest in the continued receipt of benefits.

(Commenter #13,2)

Department's Response: The end of TANF benefits due to the 60-month lifetime limit is a matter of law. The statute clearly states that, beginning January 1, 2012 a family may not receive TANF assistance for longer than 60-months except in those cases in which the department has determined that the family qualifies for an exemption or extension. TANF recipients are no longer TANF eligible past 60 months of receipt. These individuals are not accorded the rights of recipients to continuation of benefits pending an administrative hearing. Families who have been denied a hardship

extension by the Department and are in the appeals process do not have a property right to continued benefits.

Explanation of Changes to the Final Rule

has made the following revisions:

- Removed the caps to the number of extensions available for all except one of the extension categories. Cases granted an extension will be reviewed every 6 months and when the hardship is no longer in existence the case will close.
- Clarified the definition of what constitutes “Indian territory” in Maine
- Clarified the population who is exempt from lifetime limits
- Clarified the definition of “disability”
- Clarified what constitutes an approved education or training program
- Changed the criteria for meeting the job loss extension reason to include the loss of seasonal employment and clarified when the extension may be given
- Clarified the situations in which hardship extensions may not be granted

**DEPARTMENT OF HUMAN SERVICES
MAINE PUBLIC ASSISTANCE MANUAL
Introduction**

All individuals have the right to apply for any assistance without regard to race, color, national origin, sex, gender orientation, religion, or handicap.

In accordance with the Americans with Disabilities Act, no qualified individual with a disability will, by reason of such disability, be excluded from participation or be denied the benefits of the services, programs or activities of the Maine Department of Human Services, or be subjected to discrimination by the Maine Department of Human Services.

Additionally, applicants and recipients are assured confidentiality, equitable and courteous treatment and may appeal decisions and have fair hearings should they disagree with any action taken affecting their benefit.

Furthermore, the Department will provide interpreters at no cost to non-English speaking individuals applying for or participating in Department Programs.

Assistance will not be given to a family that includes an adult who has received assistance for 60 or more months, whether or not consecutive, under any program funded with Federal Funds which are part of the TANF Block Grant. In determining the number of months for which an individual who is a parent or pregnant has received assistance under a program funded under the TANF Block Grant, the Department will disregard any month for which assistance was provided with respect to the individual and during which the individual was: 1) a minor child and not the head of a household or married to the head of a household, 2) an adult who lived in Indian country during a month when at least 50% of the adults living on the reservation were unemployed, or 3) in a family receiving the enhanced earned income disregard. Extension of benefits beyond 60 months is explained in Chapter I, Time Limit.

The PaS Program is funded with the TANF Block Grant for twelve months of a recipient's participation. While Block Grant funded, the recipient is subject to the 60 month time limit.

After the 12 months of a recipient's participation in PaS, the program will be funded with State money and the participant will likewise be subject to the 60 month time limit.

An application for the TANF, PaS, RCA or Alternative Aid program is considered an application for medical assistance. Eligibility for Medicaid is determined separately.

DEPARTMENT OF HUMAN SERVICES

MAINE PUBLIC ASSISTANCE MANUAL

Eligibility Process

GENERAL RULE:

A family may not receive TANF assistance for longer than 60 months in a lifetime except in those cases in which the department has determined that the family qualifies for an exemption or temporary hardship extension.

Maine law provides that all recipients of TANF cash assistance shall be subject to a lifetime limit of sixty (60) months, whether or not consecutive.

The count for the lifetime limit on assistance begins with June 1, 1997. June is counted as month 1 of the 60 months allowed if, at the beginning of that month, state- or federally-funded cash assistance was received for either parent. The lifetime limit includes any month the family received cash assistance in any other state or territory of the United States.

Exemptions from the Time Limit

The time limit shall not apply in the instances of:

- (i) a minor child(ren) living with a single parent who receives SSI benefits, or with two parents who both receive SSI benefits;
- (ii) a minor child(ren) living with a legally responsible non-parent caretaker relative who is not in the assistance unit;
- (iii) an adult living in Indian Territory or Trust lands (as defined by 30 M.R.S.A. sections 6203(2-A) 6 and 9 and 7202(2)) where at least 50% of the adults were not employed. The department uses the most current biennial Indian Service Population and Labor force Estimates Report published by the Bureau of Indian Affairs (BIA), or any successor report, as default data source to determine if the not-employed rates for areas of Indian country are at least fifty percent. A tribe may provide alternative data based on similar periods to the above referenced report, to demonstrate that the not-employed rate is at least fifty percent;
- (iv) any month of receipt in which an individual is a pregnant or minor parent who is not the head of household;
- (v) any month for which the individual received only non-cash assistance such as:
 - a. Alternative Aid
 - b. Emergency Assistance
 - c. TANF-ASPIRE Support Services
 - d. Medical assistance
 - e. Food assistance including Transitional Food Assistance and any TANF work supplement programs
 - f. Transitional Services including child care and transportation

Benefits Which Count Toward the Limit

Receipt by an assistance unit of TANF or TANF-PaS cash assistance from Maine or from any state or territory of the U.S., regardless of the source of funding of the payment, counts as one month toward the 60-month limit when an adult or minor parent head of household is included in the assistance unit.

EXCEPTION: When a TANF overpayment has been established for a month, and that month is repaid in full, that month does not count toward the 60-month limit.

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PROVISIONS FOR HARDSHIP EXTENSIONS TO THE TIME LIMIT

There are provisions which may allow a family to receive benefits for more than 60 months.

If granted a hardship extension, eligible households will be issued monthly benefits according to TANF cash assistance benefit standards. In addition, these households are:

- (i) subject to all TANF cash assistance eligibility requirements; and
- (ii) required to participate in Family Contract Amendment activities from the date of application; and
- (iii) subject to all TANF reporting requirements

All hardship extensions are temporary. An extension may be approved for up to 6 months. Additional incremental extensions may be granted for up to six months each unless specified below. Even if the situation of another adult, or minor parent head of household in the same assistance unit, was the basis for approval of an extension, any other adult, or emancipated minor who received the benefit of the extension is considered to have received the extension.

Families who receive an extension have the option to request early termination of benefits and may be eligible for Transitional Services if otherwise eligible.

Non-compliance with required activities during an extension period will result in case closure.

Verification – The individual has the primary responsibility for providing verification to support the extension. If the applicant cannot supply, or has difficulties in obtaining, the required verification, DHHS staff will assist the individual.

EXTENSIONS:

The Department may extend TANF cash assistance benefits beyond the 60-month limit when a family is experiencing a hardship outside of their control as defined below.

The parent(s) in the family who have received TANF for 60+ months must meet one of the criteria for one of the hardship extensions and must:

- (ii) sign and be in cooperation with their Family Contract Plan unless good cause exists; and
- (iii) continue to meet all other TANF eligibility requirements; and
- (iv) continue to meet the criteria on which the extension was based each month of the extension period.

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Eligibility Process**

Failure to meet these requirements will result in the withdrawal of the extension.

HARDSHIP EXTENSION QUALIFYING CRITERIA:

- a. **Domestic Violence** – An adult or minor parent head of household who is a victim of domestic violence may be eligible for an extension of up to six months. Additional incremental extensions of up to six months each may be granted.

For extension purposes, domestic violence situations are defined as follows:

Adult(s) or minor parent heads of household are currently involved in or living with the effects of a domestic violence situation, which includes one or more of the following:

4. physical acts/threats of physical injury;
5. sexual abuse of a child or caretaker of a child;
6. psychological effects of the abuse

The individual must provide reasonable and verifiable written evidence of the abuse including but not limited to:

- Court, medical, law enforcement, child protective, social services, psychological or other records that establish that the individual has been a victim of domestic violence; or
- Sworn statements from persons other than the individual with knowledge of the circumstances affecting the individual.

When an extension is granted due to domestic violence the Department will provide information about the services offered by domestic violence resource centers and referral contact information to the individual. The Department will work with the individual to create an employment plan that includes steps to prepare for employment and economic independence as well as steps to reduce the threat of violence and increase family security. When an individual has elected to participate in services in a domestic violence resource center and with the individual's written consent the Department may request the involvement of the resource center in the development of the employment plan. Subsequent incremental extensions of up to six months each may be granted.

- b. **Disability** -The adult(s) or minor parent heads of household who are disabled may be eligible for an extension of up to six months. Additional incremental extension of up to six months may be granted.

“Disabled” is defined as the inability to engage in gainful employment based on medical evidence. The disability must substantially reduce the individual’s ability to support the family.

“Gainful employment” is defined as activities that a person can perform and pursue intended to provide an income and are a source of consistent revenue for the worker such as a steady job.

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Adults(s) or minor parent heads of household claiming disability must:

Have a significant physical or mental incapacity documented on a current medical form provided by the Department; and file an application for disability for SSI, SSDI or Railroad Retirement Disability

OR

if the impairment is believed to be temporary (less than 12 months), the individual must submit documents verifying disability via the Presumptive Eligibility Process described in Chapter II.

The request for subsequent incremental extensions must include:

- i. An updated medical form
- ii. Documentation of the active status or documentation of the appeal of a denial of the SSI/SSDI application.
- iii. Documentation of ongoing compliance in the individual's rehabilitation employment plan as reported by the Office of Rehabilitation Services, or documentation that the individual was found eligible for vocational rehabilitation services but was placed on a wait list.

If it is determined that the individual is not disabled, or is able to engage in gainful employment with no limitations, the individual does not qualify for TANF extended benefits.

c. Caring for a Significantly Disabled Family Member - The adult(s) or minor parent heads of household may be eligible for an extension of up to six months. Additional incremental extensions of up to six months each may be granted if the following conditions are met:

- (i) the adult(s) or minor parent head of household is needed to care for a family member who resides in the home and would be included on the TANF grant if otherwise eligible; and
- (ii) the person needing care must have a temporary or permanent mental or physical illness or incapacity and no other care is available.

The individual must provide documentation from a qualified medical professional that verifies:

- the household member's illness or incapacity; and
- that the household member needs full-time care.

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Eligibility Process**

An employment plan must include a requirement that the individual develop a plan for care for the disabled family member to enable a return to employment for the individual or other plan for support in anticipation of the end of cash assistance.

d. Participation in a Training or Education Program - An individual, who, in the 60th month of receipt of TANF is participating in good standing in an approved education program such as vocational education training as defined in ASPIRE-TANF Program Rules Section IV A1a. may be eligible for an extension of up to six months. For purposes of this paragraph, an approved education program does not include:

- 1) Adult Basic Education;
- (2) General Equivalency Degree activities;
- (3) English as a Second Language; or
- (4) High school.

e. Working Families – The adult(s) or minor parent head(s) of household may be eligible for an extension of up to six months when that individual is working at paid employment for at least 35 hours a week but is not earning enough to close TANF. Additional incremental extensions of up to six months each may be granted provided the individual remains working at least 35 hours per week.

Working families may be eligible for Transitional Services upon case closure following the extended benefits period if otherwise eligible.

NOTE: Self-Employed individuals, must demonstrate they are working 35 hours per week and must be earning at least the state equivalent to the minimum wage per hour to be eligible for an extension.

f. Pregnancy—An individual may be eligible for **one** extension of up to six months when there is only one adult living in the household and the pregnant woman is in her last trimester of pregnancy in the 60th month of TANF receipt. No additional extensions will be granted.

g. Loss of Job—The adult or minor parent head of household, who becomes unemployed following his/her termination from TANF as a result of the time limit, may be eligible for **an** extension of up to six months when:

- (iv) The individual has been employed for at least 12 months following TANF closure as a result of the time limit or as the result of the end of an extension period; and
- (v) The job loss was through no fault of the individual; and
- (vi) The individual has applied for unemployment benefits and would have been eligible except that (s)he has not worked for a sufficient length of time.

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The extension will last for up to six months. Additional incremental extensions of up to six months each may be granted provided there is a break in TANF for at least 12 months between the two extension periods.

h. Occurrence of an Emergency Situation – A family may be eligible for an extension of up to six months when the family has experienced an emergency situation, other than citizenship or alien status, which is beyond the control of the family and prohibits them from engaging in employment. This extension must be approved by the TANF Program Manager. Examples of an emergency situation include but are not limited to the following:

- Death of child , spouse or parent;
- Homelessness due to a disaster such as fire, flood or act of nature;, or
- Being victims of violent crimes

Pre-Termination Notice

The Department will hold a supervisory review prior to disclosure of any cases scheduled to be terminated for meeting the 60-month time limit.

No later than 120 days prior to the end of a family's 60th month of receiving TANF, the Department will offer the adult or minor parent head of household the opportunity to hold a meeting to review the family's case and:

- explain the exemption and extension criteria to the family and determine if those criteria apply to the family; and
- in instances of case closure discuss the individual's plan for supporting their family and reassess the family's plans post termination and ensure all needed services that may be available to help meet their basic needs are provided; and
- explain the family's right to appeal.

NOTE: The time limit family meeting may be held face-to-face or by phone.

If the adult recipient fails to attend the time limit family meeting, the Department will determine whether the family is eligible for a time limit hardship extension based on the information in the family's case record.

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Extension Decisions

All extension decisions and case closures based on the 60-month time limit will be made by an ASPIRE Specialist and must be approved by a Supervisor.

An extension may be considered within the last three months or at the end of the 60-month time limit.

Extension months may be retroactive to the month following TANF closure, provided the family is eligible and has not already received TANF benefits in that month. Monthly benefits will be issued to eligible households according to TANF cash assistance benefit standards.

Hardship extensions shall not be granted when:

4. The participant has rejected offers of employment or quit a job without good cause consistent with the good cause provisions within the last year;
5. The participant has failed to cooperate with ASPIRE, DSER, or QC within the past year resulting in two or more sanctions;
6. The participant has an Intentional Program Violation from the Department of Health and Human Services in the 36 months following the date the IPV was established.

Extension Granted:

When granting an extension, the Department must also determine the length of the extension and specify when the extension begins and ends. The extension must be a minimum of one month to a maximum of six months. Once an extension is granted, the individual must meet the criteria on which the extension was based each month of the extension period.

- All hardship extensions granted require an amended Family Contract Amendment to be signed, containing steps to be taken, as appropriate, to remove/improve the condition that warranted the extension.
- Formal re-evaluations of extensions are to be scheduled.
- Households that qualify for cash assistance extended benefits must be evaluated any time household circumstances change that affect the extension. Such changes might include earnings or household composition.

NOTE: Earnings of any adult approved for an extension due to a total inability to work will cause case closure due to no longer meeting extension criterion regardless of the amount of the earnings.

The sanction process does not exist for extended benefits. During the extension period, failure to cooperate will result in case closure.

Good cause:

Good cause for non-compliance with an activity in the Family Contract during a hardship extension is allowed consistent with the good cause provisions of ASPIRE-TANF.

If good cause is found, the individual is allowed to continue and must demonstrate compliance with the plan.

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Denial of Extension:

If the request for extended benefits is denied by the Department, the client will receive notification in writing that explains the reason for the denial, and appeal rights.

Right to Hearing

A TANF or PaS household has an opportunity for an administrative hearing when it disagrees with adverse action with respect to its benefits. Rules regarding the Administrative Hearing procedures outlined in Chapter VI apply, except for continuation of TANF benefits.

Continuation of Benefits

The Department will not continue to pay benefits pending an Administrative Hearing. Continued benefits are not allowed when the Department has granted the benefit for a particular period of time and the contested action is the Department's denial of an additional grant of benefits related to an extension.

When benefits have not been continued and the decision is that the Department was not correct in its action, a corrective payment shall be made for the period specified in the hearing decision.

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Parents as Scholars Program**

LEGAL BASIS: The 118th Legislature authorized the Department to establish a student financial aid program based on need for up to 2000 participants known as the Parents as Scholars Program, (PaS) to aid needy students who have dependent children and who are matriculating in post secondary undergraduate 2-year and 4-year degree-granting education programs. Enrollees in the program are provided with a package of student aid that includes aid for living expenses in an amount equivalent to TANF recipients. A family that ceases to receive aid under this chapter as a result of increased child support or increased hours of, or increased income from, employment is eligible to receive transitional support services. The program must be supported with funds other than federal block grant funds provided under the United States Social Security Act, Title IV-A. The program begins 8/1/97.

The 121st Legislature enacted law to allow the Department to use the Federal TANF Block Grant to fund twelve months of a family's PaS benefits beginning on or after July 1, 2003.

GENERAL RULE: Recipient and applicant families who qualify for TANF assistance on or after 6/20/97 may apply to participate in the PaS program instead of TANF. Individuals with marketable bachelor's degrees are ineligible for the Parents as Scholars

PROGRAM REQUIREMENTS: Eligibility for and the amount of assistance for PaS is determined in accordance with all the eligibility criteria and procedures used in the TANF program including assignment of child support, with the following exception:

1. Individuals applying to the program must be assessed in accordance with the provisions of the ASPIRE-TANF/PaS rules. To the extent that program resources and space permit, enrollment in the program must be granted if the ASPIRE-TANF/PaS assessment results in findings as follows:
 - a. the individual does not possess the necessary skills to obtain employment that will enable that individual to support a family at 85% of the median family income in the State for a family of the same size;

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- b. considering potential employment opportunities and local labor market conditions, the postsecondary education sought by the individual will significantly improve the ability of the family to be self-supporting; and
- c. the individual has the aptitude to complete the proposed post secondary program successfully.

NOTE: PaS participants are subject to the 60-month TANF time limit regardless of the funding source of the benefits. PaS participants may be eligible for a temporary extension of benefits if they meet the requirements listed in Chapter 1, Time Limits.

PARTICIPATION REQUIREMENTS: An enrollee must participate in a combination of education, training, study or work-site experience for an average of 20 hours per week in the first 24 months of the program. Aid under this chapter may continue beyond 24 months if the enrollee remains in an educational program and agrees to participate in either of the following options which are the result of Legislative action which becomes effective on September 18, 1999:

- A. Fifteen hours per week of work-site experience in addition to other education, training or study; or
- B. A total of 40 hours of education, training, study or work-site experience.

The Department must present both options to enrollees and permit them to choose either option. For the purpose of this subsection, work-site experience includes, but is not limited to, paid employment, work study, practicums, internships, clinical placements, laboratory or field work directly related to the enrollee's employment goal or any other work activities that, as determined by the Department, will enhance the enrollee's employability in the enrollee's field. In the last semester of the enrollee's educational program, work-site experience may also include resume preparation, employment research, interviews and other activities related to job placement.

The Department must make reasonable adjustments in the participation requirements in this subsection for good cause.

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Good Cause:

For the purpose of this subsection, "good cause" means circumstances in which the required participation would cause the enrollee to seriously compromise academic performance. "Good cause" includes, but is not limited to:

1. a verifiable need to take care of a family member with special needs;
2. a physical or mental health problem, illness, accident, death; or
3. a serious personal or family problem that necessitates reduced participation or time off from education, training or work.

An enrollee receiving aid under this chapter must make satisfactory progress in the enrollee's educational program. Rules defining satisfactory academic progress are found in the ASPIRE-TANF manual. The Department may not disapprove an educational plan based solely on the length of the educational program.