

DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM

TO: Holders of the MaineCare Eligibility Manual
FROM: Dale Denno, Director, Office for Family Independence
DATE: December 19, 2012
SUBJECT: OFI MAINE PUBLIC ASSISTANCE MANUAL, 10-144 C.M.R. Ch. 331,
Rule #96P, Chapter I-Eligibility Process, Time Limits, pages 21-25a

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

SUBJECT:

OFI MAINE PUBLIC ASSISTANCE MANUAL, 10-144 C.M.R.Ch. 331, Rule #96P, PROPOSED
Policy Changes #96P Chapter I-Eligibility Process, Time Limits, pages 21-25a

CONTENT:

See attached memo.

COMMENT PERIOD:

Consideration will be given to comments, suggestions and objections,
which should be submitted to:

Dawn Mulcahey, TANF Program Manager
Department of Health & Human Services
Office for Family Independence
11 State House Station, 19 Union Street
Augusta, ME 04333-0011
Telephone: (207) 624-4109
TTY: (800)-606-0215 (Deaf/Hard of Hearing)

NO LATER THAN:

January 25, 2013

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEMORANDUM**

TO: Program Administrators, Supervisors and Other Interested Parties

FROM: Dawn Mulcahey, TANF program Manager

DATE: December 19, 2012

SUBJECT: OFI MAINE PUBLIC ASSISTANCE MANUAL CH 331, Policy #96P
Chapter I-Eligibility Process, Time Limits, pages 21-25a

This is a PROPOSED Rule:

This Proposed Rule makes the following revisions to the current rule:

- Changes some language to ensure consistency in terminology throughout the rule when referring to the TANF family
- Amends the rule to define certain terms and clarify intent
- Creates a pre-termination conference for recipients to present evidence before their TANF benefits are terminated either after their 60-month period of eligibility has ended or their extension is withdrawn or ended.

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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;

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(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~~ family 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

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Benefits Which Count Toward the Limit:

Receipt by ~~an assistance unit~~ a family 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~~ family.

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.

PROVISIONS FOR HARDSHIP EXTENSIONS TO THE TIME LIMIT

~~A family may receive benefits for more than 60 months if they qualify for a hardship extension. There are provisions which may allow a family to receive benefits for more than 60 months.~~

If granted a hardship extension, eligible ~~households~~ families will be issued monthly benefits according to TANF cash assistance benefit standards. In addition, these ~~households~~ families 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, adult~~ or emancipated minor who received the benefit of the extension is considered to have received the extension.

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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~~ adult recipient or the minor parent head of household has the primary responsibility for providing verification to support the extension. If ~~the applicant that recipient cannot~~ recipient cannot supply, or has difficulties in obtaining, the required verification, DHHS staff will assist them.

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 has received TANF for 60+ months must meet one of the criteria for one of the hardship extensions and must:

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

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

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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 recipient 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:

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

- (i) physical acts/threats of physical injury;
- (ii) sexual abuse of a child or caretaker of a child;
- (iii) psychological effects of the abuse

The individual - adult or minor parent head of household recipient 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 recipient has been a victim of domestic violence; or
- Sworn statements from persons other than the individual individual recipient with knowledge of the circumstances affecting the individual recipient.

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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 recipient. The Department will work with the individual recipient 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 recipient has elected to participate in services in a domestic violence resource center, and with the individual's recipient'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 recipient who ~~are~~is 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 recipient'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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The ~~adult(s)~~ ~~(s) or~~ or minor parent heads of household recipient claiming disability must:

~~Have a significant physical or mental incapacity documented by a medical professional on a current medical form provided by the Department that supports the recipient's statement of an inability to engage in gainful employment as described above.; and file an application for disability for SSI, SSDI or Railroad Retirement Disability~~

The request for subsequent incremental extensions must include:

- i. An updated medical form documenting a significant physical or mental incapacity and inability to engage in gainful employment, and
- ii. Documentation of the active status or documentation of the appeal of a denial of ~~a the~~ SSI/SSDI application; and.
- iii. ~~If applicable appropriate, d~~ Documentation of ongoing compliance in the ~~individual's disabled~~ recipient's rehabilitation employment plan as reported by the Office of ~~Rehabilitation Services~~ Rehabilitation Services, or documentation that the ~~individual disabled~~ recipient was found eligible for vocational rehabilitation services but was placed on a wait list.

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

- c. **Caring for a Significantly Disabled Family Member** - The ~~adult(s) or~~ adult or minor parent heads of household recipient who is needed to care for a significantly disabled family member 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 all of the following conditions must be met:

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~~if the following conditions are met:~~

- (i) the adult~~(s)~~ or minor parent head of household recipient 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 recipient must provide documentation from a qualified medical professional that verifies:

The person who needs the care is physically or mentally disabled, as determined by medical evidence, and the person who needs the care requires full-time assistance with daily living activities such as eating, personal care, mobility and/or medical attention; or The person who needs care requires full-time supervision to address mental health issues that may result in harm to the person needing care or to others.

An employment plan must include a requirement that the recipient needed to care for the disabled family member develop a plan for care for the disabled family member to enable a return to employment for the caregiver or the other plan for support in anticipation of the end of cash assistance. ~~the family member's illness or incapacity; and that the family member needs full-time care.~~

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

d. Participation in a Training or Education Program - An individual adult or minor parent head of household recipient, 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. 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~~ adult or minor parent ~~head(s) of~~ head of household recipient may be eligible for an extension of up to six months when that individual recipient 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 recipient 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-recipients must demonstrate that 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.

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f. **Pregnancy**—~~An individual~~ The adult or minor parent head of household recipient may be eligible for **one** extension of up to six months when ~~there she~~ is the only adult living in the ~~household and the pregnant woman, and household, and~~ 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~~recipient, 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~~ is terminated from TANF as a result of the time limit or end of an extension and subsequently becomes unemployed, may be eligible for an extension of up to six months when:

- (i) The ~~individual~~recipient 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
- (ii) The job loss was through no fault of the ~~individual~~recipient; and
- (iii) The ~~individual~~recipient has applied for unemployment benefits and would ~~have been~~be 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 a victim of violent crime

Pre-Termination Notice and Conference:

The Department will hold a supervisory review prior to disclosure of any cases scheduled to be terminated for meeting the 60 month time limit. The family shall have the right to request a conference prior to termination of TANF benefits to (1) contest the Department's calculation of the termination date and/or (2) seek to establish the family's eligibility for a hardship extension. At the conference, the family shall have a right to present evidence and argument; to bring witnesses to testify on the family's behalf; and to be represented by legal counsel. The pre-termination conference shall be conducted by an ASPIRE worker trained in the procedures set forth in this chapter, who will determine, based upon the family's case record and any evidence presented at the conference, the correct termination date for the family's TANF benefits and/or whether a hardship extension should be granted. The pre-termination conference may be held face-to-face or by phone.

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: send

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written notice to the family of- the opportunity to request a pre-termination conference. The notice will clearly explain:

- Explain the exemption and extension criteria to the family and determine if those criteria apply to the family; and The purpose of the pre-termination conference;
 - In instances of case closure discuss the individual's plan for supporting their family and reassess the family's plan's post termination and ensure all needed services that may be available to help meet their basic needs are provided; and That a pre-termination conference may be requested orally or in writing;
 - Explain the family's right to appeal. The name, address, and telephone number of the individual or office the family must contact to request a pre-termination conference;
 - That the pre-termination conference may be conducted by phone or in person; and
- the timeframe in which the family must request a pre-termination conference to ensure continuation of benefits pending the conference.

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 family's case reco

Upon receipt of a request, the ASPIRE ~~specialist responsible for conducting the pre-termination conference shall send a letter to the family stating:~~

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If a pre-termination conference is requested within 10 days of the date of the written notice, the family's benefits will continue until the conference has been held and a determination made, or until the scheduled termination date, whichever occurs later. If a pre-termination conference is requested more than 10 days after the date of the written notice, the family's benefits shall be terminated at the end of the 60th month unless the Department determines that the family qualifies for a hardship extension. When a pre-termination conference is requested by phone, the family may choose to hold the conference at that time or to schedule a date in the future, in which case the ASPIRE worker will send a letter indicating the date and time of the pre-termination conference. Whether the pre-termination conference is requested by phone or in writing, the worker will explain, either verbally or in the scheduling letter, the following to the requesting family:

- The family's right to present evidence and argument at the pre-termination conference, and to bring witnesses to testify on the family's behalf;

~~Pre-termination conference is requested more than 10 days after the date of the written notice, the family's benefits shall be terminated at the end of the 60th month unless the Department determines that the family qualifies for a hardship extension. When a pre termination conference is requested by phone, the family may choose to hold the conference at that time or to schedule a date in the future, in which case the ASPIRE worker will send a letter indicating the date and time of the pre termination conference. Whether the pre termination conference is requested by phone or in writing, the worker will explain, either verbally or in the scheduling letter, the following to the requesting family: The family's right to present evidence and argument at the pre-termination conference, and to bring witnesses to testify on the family's behalf;~~

- The family's right to be represented by legal counsel at the pre-termination conference; and

- That the family may request to have the pre-termination conference rescheduled or continued for good cause. This request must be made before the scheduled conference.

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Following the pre-termination conference, the ASPIRE worker shall issue a letter to the family explaining the Department's determination and advising of the right to appeal.

If the family fails to request or attend the pre-termination conference, the Department will determine whether the family is eligible for a hardship extension based on the information in the family's case record

Temporary Hardship Extension Decisions:

All ~~extension~~ temporary hardship extension decisions and case closures based on the 60-month time limit will be made by an ASPIRE ~~Specialist worker~~ pursuant to the process detailed above, 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:

1. The ~~participant~~ adult recipient has rejected offers of employment or quit a job without good cause consistent with the good cause provisions within the last year;

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2. The ~~participant adult recipient~~ has failed to cooperate with ASPIRE, Division of Support Enforcement and Recovery (“DSER”), or Quality Control (“QC”) within ~~the past year-12-months of the end of the 60th month~~, resulting in two or more sanctions;

3. The ~~participant adult recipient~~ has an Intentional Program Violation (“IPV”) from the Department of Health and Human Services established in the 36 months ~~following the date the IPV was established~~ prior to the request for extension.

Temporary Hardship Extension Granted:

When granting ~~an a temporary hardship~~ 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 adult recipient(s)~~ must meet the criteria on which the extension was based each month of the extension period.

- All temporary hardship extensions granted require the adult recipient(s) to sign an amended Family Contract Amendment, ~~to be signed~~ containing steps to be taken, as appropriate, to remove/improve the condition that warranted the extension.

- The adult recipient(s) must be actively engaged in an approved activity or process designed to further the family’s goal of self-sufficiency.

- Formal re-evaluations of extensions are to be scheduled.

- Households ~~Families~~ that qualify for cash assistance extended benefits must be evaluated any time a change in household circumstances ~~change that occurs which~~ affects the extension. Such changes might include earnings or ~~household family~~ composition.

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NOTE: Earnings of any adult recipient or minor parent head of household approved for an extension due to a total inability to work will cause case closure due to no longer meeting failure to meet extension criteria, regardless of the amount of the earnings.

The sanction process does not exist for extended benefits. If, during the extension period, the adult recipient or minor parent head of household fails, without good cause, to follow through on requirements established for receipt of the additional months of TANF, the extension will be withdrawn and TANF benefits will end. See "End of a Temporary Hardship Extension";" below. During the extension period, failure to cooperate will result in case closure.

End of a Temporary Hardship Extension:

All hardship extensions are temporary and may be approved for up to six months. During the temporary hardship extension period the ASPIRE worker shall monitor the case for compliance. The TANF benefit continues until the extension ends or the family is no longer eligible for TANF for other reasons.

The family will receive notice, which shall be consistent with the notice described under Pre-Termination Conference and Notice on page 24, at least 10 days before the end of the temporary hardship extension. That notice will includes an explanation of the right to request a hearing.

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A temporary hardship extension will end when::

1. The extension period has expired. If, at the time of expiration, the adult recipient has not resolved the situation that led to the extension, the adult recipient may request a subsequent extension. The adult recipient must present documentation that verifies the need for the extension. The decision whether to grant a subsequent extension shall be made prior to the TANF closure.

The situation causing the need for a temporary hardship extension has been resolved and the reason for the extension no longer exists. The adult recipient may request an extension based on other criteria, if it exists, at that time. The decision whether to grant a subsequent extension shall be made prior to the TANF closure.

2. The adult recipient or minor parent head of household, without good cause, fails to cooperate with their **Family Contract Amendment** during the temporary hardship extension period.

Pre-Termination Conference at the End of a Temporary Hardship Extension:

A recipient whose temporary hardship extension is ending ~~due to #1 and #2 above~~ may request a pre-termination conference to contest the Department's calculation of the end of the extension or to seek to establish the family's eligibility for a continued extension. This conference shall be consistent with the process described under Pre-Termination Conference and Notice on page 24, with the exception of the timeframe. If a pre-termination conference is requested within 10 days of the date of the written notice of the end of a temporary hardship extension, the family's benefits will continue until the conference has been held and a determination made, or until the scheduled termination date, whichever occurs later

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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 [explained in Chapter II of this Rule.](#)

If good cause is found, the individual is allowed to continue [receiving](#) benefits and must demonstrate compliance with the [plan Family Contract Amendment](#).

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.

Right to Appeal:

Any adult recipient or minor parent head of household whose request for a temporary hardship extension has been denied for any reason may request an Administrative Hearing. Benefits, however, may not be extended beyond the 60th month or be reopened following a 60-month closure while a hearing or a decision by the Hearings Officer is pending. All other rules regarding the Administrative Hearing procedures outlined in Chapter VI apply.

~~A TANF or PaS family has an opportunity to appeal any adverse action with respect to its benefits through a formal Administrative Hearing. Rules regarding the Administrative Hearing procedures outlined in Chapter VI apply. Benefits will not continue pending the outcome of an Administrative Hearing.~~

When the Hearing Officer's 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.