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Sequence Number: 12-11-13  
 Notice ID(s): 2103-2104  
 File Date: 12/16/13

# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Tennessee Department of Human Services
<b>Division:</b>	Family Assistance Division
<b>Contact Person:</b>	Madeline Brough
<b>Address:</b>	Office of General Counsel Citizens Plaza Building, 15 <sup>th</sup> Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
<b>Phone:</b>	615-313-4731
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*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Jeffrey Blackshear
<b>Address:</b>	Office of General Counsel Citizens Plaza Building, 15 <sup>th</sup> Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
<b>Phone:</b>	615-313-4731
<b>Email:</b>	Jeffrey.Blackshear@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Tennessee Department of Human Services Conference Room		
Address 2:	103 E. Walnut Street		
City:	Johnson City		
Zip:	37601		
Hearing Date :	02/04/14		
Hearing Time:	1:00 PM	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT

Address 1:	Department of Human Services Large Conference Room		
Address 2:	2700 Middlebrook Pike, Ste. 200		
City:	Knoxville		
Zip:	37921-5667		
Hearing Date :	02/05/14		
Hearing Time:	1:00 PM	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT

Address 1:	1st Floor Auditorium		
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Address 2:	540 McCallie Ave.		
City:	Chattanooga		
Zip:	37402		
Hearing Date :	02/06/14		
Hearing Time:	1:00 PM	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT

Address 1:	Davidson County DHS Office Video Conference Room		
Address 2:	1000 2nd Avenue North		
City:	Nashville		
Zip:	37243		
Hearing Date :	02/07/14		
Hearing Time:	1:00 PM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	Cookeville District Office Multi Purpose Room		
Address 2:	1000 England Drive, Suite B		
City:	Cookeville		
Zip:	38501		
Hearing Date :	02/10/14		
Hearing Time:	1:00 PM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	Maury County Department of Human Services Office Conference Room		
Address 2:	1400 College Park Drive, Suite B		
City:	Columbia		
Zip:	38401		
Hearing Date :	02/11/14		
Hearing Time:	1:00 PM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	2 <sup>nd</sup> Floor Conference Room B, Ste 210 Lowell Thomas State Office Building		
Address 2:	225 Martin Luther King, Jr. Drive		
City:	Jackson		
Zip:	38301		
Hearing Date :	02/13/14		
Hearing Time:	1:00 PM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	Southwest Tennessee Community College Farris Auditorium		
Address 2:	5983 Macon Cove		
City:	Memphis		
Zip:	38134		
Hearing Date :	02/14/14		
Hearing Time:	1:00 PM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1240-01-49	Families First Work Requirements
<b>Rule Number</b>	<b>Rule Title</b>
1240-01-49-.02	Exemption Determination
1240-01-49-.04	Failure to Comply, Conciliation, Good Cause, and Sanctions
1240-01-49-.06	Voluntary Quit
1240-01-49-.08	Reserved for Future Use

<b>Chapter Number</b>	<b>Chapter Title</b>
1240-01-54	Child Care - Families First Program
<b>Rule Number</b>	<b>Rule Title</b>
1240-01-54-.02	Transitional Child Care Coverage

Chapter 1240-01-49  
Families First Work Requirements

Amendments

Rule 1240-01-49-.02 Exemption Determination is amended by deleting the rule in its entirety and by substituting instead the following language, so that, as amended, rule 1240-01-49-.02 shall read as follows:

1240-01-49-.02 Exemption Determination.

- (1) The following individuals are exempt, subject to the referral process set forth in paragraph (2), from participation in the Families First/TANF work and/or educational requirements:
  - (a) An individual who is disabled. An individual is disabled if the individual:
    1. Has been approved for Social Security Disability (Title II) or Supplemental Security Income on the basis of his/her disability;
    2. Receives Veterans benefits on the basis of his/her one hundred percent (100%) disability; or
    3. Receives Black Lung benefits based on his/her disability.
  - (b) An individual who is determined to be incapacitated for the purpose of participating in a work and/or educational activities requirement. The incapacity determination shall be made according to paragraph (2).
  - (c) An individual for whom an incapacity determination, under paragraph (2), is pending.
  - (d) An individual who is age sixty-five (65) or older.
  - (e) An individual who is needed in the home to care for an in-home relative who is disabled as determined by a physician or a licensed or certified psychologist, and no other appropriate member of the household is available to provide the needed care.
  - (f) An individual who is the caretaker, in a single-parent household, of a child under one (1) year of age.
  - (g) An individual who is one (1) of two (2) parents in a two-parent household caring for a child under age sixteen (16) weeks.
- (2) Evaluation of Disabled Individuals and Individuals Alleging Incapacity for Participation in Work and/or Educational Activities.
  - (a) Except as set forth in subparagraph (b) below, the Department shall refer all Families First recipients/applicants, who are disabled or who allege incapacity to work, for an evaluation to the Division of Rehabilitative Services (DRS). The DRS shall determine, under Chapter 1240-08-04, whether the recipient/applicant is eligible for services that would provide the individual an opportunity to fulfill the Families First/TANF work and/or educational activities requirement consistent with his/her capabilities.
    1. Any Families First/TANF recipient who becomes a fully active participant in the DRS program shall be deemed to meet their work and/or educational activities requirement.
    2. Any Family First/TANF recipient, who is required to participate in the DRS program to fulfill the Families First/TANF work and/or educational activities requirement, may be sanctioned under Rule 1240-01-49-.04 for his/her failure to participate and comply with the DRS application process and/or work plan.

3. There is no requirement for financial participation by the individual for furnishing any vocational rehabilitation services if the individual is determined eligible for Families First/TANF cash assistance.
- (b) At any time, the Department shall refer a Families First/TANF applicant/recipient to the Department's Medical Evaluation Unit (MEU) when:
1. The Families First/TANF recipient is not eligible for services from DRS; or
  2. An incapacity evaluation is necessary to determine deprivation of parental support.
    - (i) MEU shall determine whether incapacity exists that would deprive a child of parental support.
    - (ii) If incapacity exists, as determined by MEU, the Department's case worker shall refer the Families First/TANF case for a DRS evaluation pursuant to subparagraph (a) of this paragraph (2) above.
  3. For purposes of the MEU determination, incapacity is deemed to exist when the defect, illness, or impairment is:
    - (i) Supported by competent medical evidence; and
    - (ii) Expected to last for a period of at least thirty (30) days.
- (c) Review of MEU Incapacity Status. For incapacity determinations made by the MEU, incapacity status shall also be reviewed and verified at the end of the MEU approval period if continued incapacity is claimed.
1. Individuals who were recently terminated from Social Security Disability/SSI disability benefits who claim continued incapacity may continue to be exempt as incapacitated while the necessary information is being secured and submitted to the MEU.
  2. If the client fails to cooperate with the MEU without good cause or refuses to cooperate, the exemption on the basis of incapacity ends.
- (d) Period of Incapacity for Families First/TANF recipients exempt from work and/or educational requirements.
1. At any time, if there is any indication the Families First/TANF recipient is no longer incapacitated, the recipient's complete medical file shall be resubmitted to the MEU with current medical-social information, including the facts which indicate that incapacity no longer exists.
  2. For an active incapacity exemption denied by the MEU, the exemption will be terminated as soon as the recipient is notified.
- (3) Opting-In to Participation in Families First/TANF Work and/or Educational Activities.
- (a) Any individual who is exempt from the Families First/TANF work and/or educational requirements under this rule, except a SSI recipient, may choose to opt-in to participation in the work and/or educational activities.
  - (b) Any individual who voluntarily chooses to opt-in to participation in the Families First/TANF work and/or educational requirements shall be subject to the sanction rules set forth in Rule 1240-01-49-.04.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-3-102, 71-3-104, and 71-3-104(h)(3)(A)-(G), 71-3-108(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602; 42 U.S.C. § 607(c), (d), and (e); 42 U.S.C. § 608; 42 U.S.C. § 608(b); 42 U.S.C. § 609, 42 USC §1315(a); Public Acts of 1996, Chapter 950, 45 CFR 233.90(c)(iv), and 45 CFR 250.30, §1115 of the Social Security Act; 45 C.F.R. § 260.30; 45 C.F.R. § 260.31; 45 C.F.R. 233.90, 45 C.F.R. § 261.2(b) through (m); 45 C.F.R. § 261.2(n); Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Public Acts of 2007, Chapter 31.

Rule 1240-01-49-.04 Failure to Comply, Conciliation, Good Cause, and Sanctions is amended by deleting the rule in its entirety and by substituting instead the following language, so that, as amended, rule 1240-01-49-.04 shall read as follows:

1240-01-49-.04 Failure to Comply, Conciliation, Good Cause, and Sanctions.

- (1) The Department shall sanction a Families First/TANF recipient who is required or who opts-in to participation in a work and/or educational activities requirement and who fails without good cause, to participate in the required work and/or educational activities in his/her Personal Responsibility Plan.
  - (a) Failure to participate in required work and/or educational activities includes, but is not limited to, refusal to cooperate in the required activities, failure to make satisfactory progress in the required activities, failure to meet minimum attendance standards for the required activities, refusal to participate in the vocational rehabilitation application process, refusal to participate in the vocational rehabilitation services and activities directed towards the recipient's employment goals, falsifying employment documentation, refusal to accept suitable employment, or quitting employment.
    1. Following non-compliance with required work and/or educational activities, a sanction shall make the entire assistance unit (AU) ineligible during the mandatory period of case closure when the Families First/TANF recipient to be sanctioned is the caretaker or either parent in a two (2) parent AU.
    2. Following non-compliance with required work and/or educational activities, a sanction shall be applied to remove a Families First/TANF recipient from the AU when that individual is a minor parent who is also a dependent child in an AU.
  - (b) Exempted Individuals Opting-in. If a Families First/TANF recipient chooses to opt-in to participation in the work and/or educational activities requirement, the recipient must comply with the required work and/or educational activities and cannot choose to return to exempt status, unless the recipient provides good cause. Any non-compliance with the work and/or educational activities requirement by any recipient who chooses to opt-in to participation shall result in a sanction.
    1. Transition period. The Department shall provide any recipient who is in volunteer status prior to the effective dates of this Chapter with an opportunity to return to exempt status.
    2. A recipient who opts-in to participation in Families First/TANF work and/or educational activities will remain in "opt-in" status until the case is closed, unless the recipient provides good cause to return to exempt status. Upon reapplication after case closure, if the applicant meets the exemption criteria, he/she may choose to opt-in to participation in the work and/or educational activities requirement, or may choose to be exempt from the activities requirement.
- (2) Attendance Standards and Good Cause.
  - (a) All Families First/TANF work and/or educational activities requirements are mandatory. Recipients shall be sanctioned for any unexcused absences from Families First/TANF work and/or educational activities requirements. A recipient's first unexcused absence is considered non-compliance and is grounds for a sanction.

- (b) Good cause may excuse a Families First/TANF recipient's failure to comply with their work and/or educational activities requirement. Good cause reasons include, but are not limited to, the following:
1. Recipient is determined through medical evidence to be physically or mentally unable to perform the work and/or educational activities requirement assigned;
  2. Recipient lacks child care;
  3. Recipient has a serious household emergency;
  4. Recipient meets a work and/or educational activities requirement exemption criterion;
  5. Recipient's health or safety is at risk;
  6. Recipient lacks transportation;
  7. Recipient voluntarily quits employment with good cause as set forth in Rule 1240-01-49-.06;
  8. Recipient is under threat of domestic violence; or
  9. Any other factor which exists that is beyond the control of the Families First/TANF recipient.
- (3) The Department, at its discretion, upon considering what best effectuates the purposes of the Families First/TANF program, meets the needs of the recipients, fosters program efficiency, conserves limited resources, and encourages recipients to better utilize the available period of eligibility, shall impose sanctions on all recipients who are determined non-compliant with work and/or educational activities requirements according to either subparagraph (a) or (b) of this paragraph (3) below.
- (a) Conciliation, Adverse Action and Case Closure.
1. Non-compliance. Refusal or failure, without good cause, by a non-exempt recipient, including either parent/caretaker in a two-parent AU and those exempt participants who opt-in to participation, to engage in the required work and/or educational activities included in the recipient's Personal Responsibility Plan shall result in immediate case closure for a mandatory sanction period.
  2. Conciliation. The non-compliant recipient may attempt to resolve the non-compliance with the work and/or educational activities requirement during a ten (10)-day conciliation period.
    - (i) Notification. If the Department's eligibility counselor determines that a Families First/TANF recipient is non-compliant with assigned work and/or educational activities, the eligibility counselor shall close the recipient's Families First/TANF case and issue the non-compliant recipient an adverse action notice of a ten (10) day conciliation period.
    - (ii) Verification of Good Cause. The Families First/TANF recipient must contact the Department during the ten (10) day conciliation period to provide verification of good cause. If the recipient contacts the Department during the ten (10) day conciliation period and provides adequate verification of good cause the Department shall re-open the recipient's Families First/TANF case.
  3. Sanction Period. If the non-compliant recipient fails to provide the Department adequate good cause during the ten (10) day conciliation period, the Department shall impose a mandatory sanction period pursuant to paragraph (4) below.

- (b) Cure Period, Adverse Action, and Case Closure.
1. Cure Period. Refusal or failure, without good cause, by a non-exempt recipient, including either parent in a two-parent AU and those exempt recipients who opt-in to participation, to engage in the required work and/or educational activities included in the recipient's Personal Responsibility Plan shall result a thirty (30) day cure period, during which the recipient may attempt to cure his/her non-compliance. Failure to cure non-compliance during the cure period shall result in immediate case closure for the duration of a mandatory sanction period.
    - (i) The cure period shall begin upon the Department's notification to the non-compliant recipient of his/her non-compliance with required work and/or educational activities.
    - (ii) The Department shall not take action to close a case during the cure period and the Families First/TANF recipient shall continue to receive benefits during the cure period, provided that the recipient complies with required work and/or educational activities during the cure period.
  2. Resolution of Non-Compliance. To resolve non-compliance during the cure period, a Families First/TANF recipient must comply with work and/or educational activities requirements during the entirety of the cure period.
    - (i) If the recipient is unable to comply with required activities, the recipient must provide the Department with adequate verification of good cause to resolve their non-compliance during the cure period.
    - (ii) If the Department determines that a recipient has successfully cured his/her non-compliance during the cure period, the Department shall not impose a sanction on the recipient.
  3. Failure to Resolve Non-Compliance during Cure Period. If the Department determines that a recipient has not successfully cured his/her noncompliance and cannot establish good cause, the Department shall impose mandatory sanctions.
    - (i) Notification and Adverse Action Period. The Department shall issue a notice of adverse action to the non-compliant recipient ten (10) days prior to case closure.
    - (ii) Sanction Period. After expiration of the ten (10) day adverse action period, the Department shall impose a mandatory sanction period pursuant to paragraph (4) below.
- (4) Length of Sanction. The mandatory sanction shall be imposed for the following time periods:
- (a) First violation. The first violation shall result in the imposition of a one (1) month case closure period of ineligibility for cash assistance.
  - (b) Second violation. The second violation shall result in the imposition of a three (3) month case closure period of ineligibility for cash assistance.
  - (c) Third violation. The third violation shall result in the imposition of a six (6) month case closure period of ineligibility for cash assistance.
  - (d) Fourth or Subsequent Violation. The fourth or subsequent violation shall result in a twelve (12) month case closure period of ineligibility for cash assistance.
  - (e) The sanction shall begin with the next recurring month following the expiration of the adverse action period, unless the participant timely appeals.

- (5) Child Care.
- (a) The Department shall not provide any child care or transitional child care to any Families First/TANF recipient with a closed case due to noncompliance with the work and/or educational activities requirement.
  - (b) Child care shall be provided as necessitated during any cure or compliance period under this Chapter.
- (6) Early Re-entry during Case Closure. A Families First/TANF recipient whose case was closed due to noncompliance with the work and/or educational activities requirement may apply for early re-entry if he/she meets the following criteria:
- (a) The early re-entry criteria during the mandatory sanction periods are:
    - 1. The receipt of cash assistance would prevent removal of a child from the home by the Department of Children's Services;
    - 2. The recipient has become disabled or incapacitated according to the Families First/TANF work activities exemption policy;
    - 3. The recipient is under a threat of domestic violence;
    - 4. The receipt of cash assistance would prevent the recipient's family or AU from becoming homeless; or
    - 5. The recipient has assumed the responsibility of caring for an in-home disabled relative.
  - (b) Fourth or Subsequent Sanction Period. If a non-compliant recipient has been continuously employed for a period of three (3) months for at least thirty (30) hours per week, is still employed, and is able to verify the employment then that recipient is eligible for early re-entry during a fourth or subsequent sanction period.
- (7) Families First/TANF Eligibility after Sanction.
- (a) Applications filed prior to the expiration of the mandatory sanction period shall be denied due to ineligibility for benefits during the sanction period.
  - (b) Participation in Families First/TANF after a sanction due to non-compliance with the work and/or educational activities requirement may resume when:
    - 1. The mandatory sanction period has expired;
    - 2. The former recipient files a new Families First/TANF application and meets all other eligibility criteria; and
    - 3. The former Families First/TANF recipient complies with required work and/or educational activities for two (2) weeks (10 business days) after re-application.
  - (c) The Department shall consider a former recipient's Families First/TANF application pending during the mandatory two (2) week compliance period and the recipient shall receive childcare, as needed.
- (8) Appeals. Any individual who receives notification of a case closure or suspension of benefits as a result of non-compliance with the work and/or educational activities requirement may timely appeal according to the appeal procedures outlined in Chapter 1240-05 and Title 4, Chapter 5, Part 3 of the Uniform Administrative Procedures Act and which shall not be more narrow than those in existence on August 31, 1996.

- (a) If the sanctioned individual timely requests a hearing to challenge case closure, no sanctions shall be imposed until a final decision is entered.
- (b) Overpayments. If a final decision upholding the sanction decision is entered, the cash assistance received during the sanction period pending the fair hearing will be considered an overpayment and DHS may collect the overpayment in accordance with the procedures set forth in Chapter 1240-01-52.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-1-105(12), 71-3-101 through 71-3-115, 71-3-104(a), (d)(1)(B) and (C), (g) and (h), 71-3-107(c)(1) and (f), and 71-3-108(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602, 42 U.S.C. § 607(c)(2)(C), 42 U.S.C. § 607(c), (d)(1) through (12) and (e), 42 U.S.C. § 608, 42 U.S.C. § 608(a)(4) and 42 U.S.C. § 609; 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996; Acts of 1996, Chapter 950, and 45 CFR 250.34 through 250.36, §1115 of the Social Security Act, 45 C.F.R. § 260.30, 45 C.F.R. § 260.31, 45 C.F.R. § 261.2(b) through (m), 45 C.F.R. § 261.2(n), 45 C.F.R. § 261.10, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31 and 45 C.F.R. § 261.32; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006) and Public Acts of 2007, Chapter 31.

Rule 1240-01-49-.06 Voluntary Quit is amended by deleting the rule in its entirety and by substituting instead the following language, so that, as amended, rule 1240-01-49-.06 shall read as follows:

1240-01-49-.06 Voluntary Quit.

- (1) Any member of an AU with a work and/or educational activities requirement, including either parent in a two-parent AU, shall not voluntarily quit employment, without good cause, within the two (2) months prior to the month of application, during the month of application, or during the application processing period for Families First/TANF cash assistance.
  - (a) If any member of an AU with a work activities requirement voluntarily quits employment as set forth in this section, the application will be pended.
  - (b) An AU is eligible for Families First/TANF cash assistance after a voluntary quit prior to or during the application processing period when:
    - 1. The Families First/TANF applicant meets all eligibility criteria; and
    - 2. The Families First/TANF applicant complies with required work and/or educational activities for two (2) weeks (10 business days) after application.
- (2) If, during receipt of Families First/TANF cash assistance, any member of an AU with a work activities requirement, including either parent in a two-parent AU, voluntarily quits employment without good cause, the individual and/or AU shall receive a sanction as set forth in Rule 1240-01-49-.04.
- (3) Good cause to avoid a voluntary quit sanction includes, but is not limited to:
  - (a) Complications of pregnancy which render the mother incapacitated, as certified by a physician;
  - (b) The individual was required to return to work prior to the end of the sixteen (16) weeks of leave following the birth of a child, as provided for in the Tennessee Family Medical Leave Act;
  - (c) Existing child care became unavailable and substitute child care could not be arranged, for reasons beyond the caretaker's control;
  - (d) Transportation was unavailable and the employee submits evidence that substitute transportation could not be arranged;
  - (e) The employee was needed in the home to care for an ill or disabled family member;
  - (f) The employer refused to allow time off for the employee to attend to a temporary family emergency;

- (g) The job paid less than minimum wage based on the number of hours actually worked;
- (h) There was discrimination by the employer based on age, race, sex, color, handicaps, religious beliefs, national origins, or political beliefs;
- (i) Work demands or conditions rendered continued employment unreasonable;
- (j) The employee accepted other employment with at least comparable gross wages; or
- (k) The employee left a job in connection with patterns of employment in which workers frequently move from one employer to another.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-1-105(12), 4-5-209, 71-3-101 through 71-3-115, 71-3-104(a), (d), (g) and (h), 71-1-105, 71-3-107(c)(1) and (f), and 71-3-108(d)(2)(D), 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602, (c), (d), 42 U.S.C. § 607 and (e), 42 U.S.C. § 608, 42 U.S.C. § 608(b)(3), 42 U.S.C. § 609, 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996, 42 USC §1315(a), Acts of 1996, Chapter 950, and § 1115 of the Social Security Act, 45 C.F.R. § 261.2, 45 C.F.R. § 261.10, 45 C.F.R. § 261.14, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31, and 45 C.F.R. § 261.32; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Public Acts of 2007, Chapter 31.

Rule 1240-01-49-.08 Reserved for Future Use is amended by deleting the rule in its entirety and by substituting instead the following language, so that, as amended, rule 1240-01-49-.08 shall read as follows:

1240-01-49-.08 Definitions. For purposes of this Chapter:

- (1) "Adverse Action Notice" is a computer generated notice sent to a Families First/TANF recipient when a negative action is taken on a Families First/TANF case.
- (2) "Assistance Unit" (AU) means the group of people applying for or receiving Families First/TANF cash assistance benefits.
- (3) "Caretaker" is a relative within a specified degree of relationship to the child who:
  - (a) provides a home for the child;
  - (b) exercises primary responsibility for care and control of child; and
  - (c) is included in the AU.
- (4) "Child Care" means the provision of supervision and protection, and at a minimum, meeting the basic needs of a child or children for less than twenty-four (24) hours a day. Child care is provided when necessary for the participant to take part in work or training activities while the AU is receiving Families First/TANF cash assistance.
- (5) "Conciliation" means a ten (10) day period of time given to a Families First/TANF recipient to establish good cause for failure to comply with their work activities requirements following the issuance of an adverse action notice.
- (6) "Cure Period" means the thirty (30) day period of time during which a Families First/TANF recipient may resolve his/her non-compliance with required work and/or educational activities by demonstrating adequate participation.
- (7) "Department" means the Department of Human Services.
- (8) "Employee" means the Families First/TANF recipient and/or caretaker, who works in the service of another person, private entity, or governmental entity.
- (9) "Employment" means the relationship between an employee and his/her employer.

- (10) "Families First" refers to the temporary public assistance program provided under Temporary Assistance for Needy Families ("TANF"), pursuant to Title IV-A of the Social Security Act and title 71, chapter 5, part 3 of the Tennessee Code Annotated.
- (11) "Incapacity" is deemed to exist when one parent has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must 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 be expected to last for a period of at least thirty (30) days. Incapacity may be a reason for deprivation or may be a reason for a temporary exemption from a work activities requirement.
- (12) "Sanction" means the period of time during which a Families First/TANF case is closed due to lack of adequate participation in required work and/or educational activities.
- (13) "Support Services" means the transportation, optical, dental, and other services which are provided by the Families First/TANF work activity contractor when necessary for participation in work and/or educational activities.
- (14) "Work activities" means the work and/or educational activities performed in return for cash assistance benefits that provide a Families First/TANF recipient with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-1-105(12), 71-3-101 through 71-3-115, 71-3-104(a), (d)(1)(B) and (C), (g) and (h), 71-3-107(c)(1) and (f), and 71-3-108(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602, 42 U.S.C. § 607(c)(2)(C), 42 U.S.C. § 607(c), (d)(1) through (12) and (e), 42 U.S.C. § 608, 42 U.S.C. § 608(a)(4) and 42 U.S.C. § 609; 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996; Acts of 1996, Chapter 950, and 45 CFR 250.34 through 250.36, §1115 of the Social Security Act, 45 C.F.R. § 260.30, 45 C.F.R. § 260.31, 45 C.F.R. § 261.2(b) through (m), 45 C.F.R. § 261.2(n), 45 C.F.R. § 261.10, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31 and 45 C.F.R. § 261.32; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006) and Public Acts of 2007, Chapter 31.

Chapter 1240-01-54  
Child Care  
Families First Program

Amendments

Rule 1240-01-54-.02 Transitional Child Care Coverage is amended by deleting the rule in its entirety, by substituting instead the following language, so that, as amended, rule 1240-01-54-.02 shall read as follows:

1240-01-54-.02 Transitional Child Care Coverage.

- (1) Transitional Child Care (TCC) shall be provided following the effective date of the Families First/TANF case closure for a minimum of a twelve (12) month period of time, beginning with the month following the effective date of the Families First/TANF closure for any reason except for closures resulting from circumstances described in paragraphs (3) or (4). If the recipient does not request TCC at case closure and then later requests TCC, then TCC will only be provided for the remaining months in the twelve (12) month period of time that followed case closure.
- (2) TCC for a minimum of twelve (12) months shall be provided when:
  - (a) The caretaker has a minimum of thirty (30) hours per week in allowable activities, as defined by policy;
  - (b) The individual's gross wages equal the current federal minimum wage when averaged over the number of hours worked per week; and
  - (c) Total family income is below the income level established in State Transitional Child Care policies. This income level will be set at sixty percent (60%) of the state median income or higher.
- (3) An Assistance Unit (AU) is ineligible for TCC beginning with the month after the Families First/TANF AU becomes ineligible when the case is closed due to:
  - (a) Non-cooperation with child support establishment and enforcement requirements; or
  - (b) Non-compliance with work activity requirements.
- (4) Eligibility for Transitional Child Care (TCC) ends and does not begin again until re-application for Families First, when:
  - (a) The AU moves out of state;
  - (b) The caretaker fails to pay required parent co-pay fees or to make acceptable payment arrangements;
  - (c) There is no eligible adult;
  - (d) The only child in the assistance unit leaves the home;
  - (e) The case has no minor parent (Eligible Child) in the AU who has signed a Personal Responsibility Plan;
  - (f) The case that was approved for interim benefits is later found to have been ineligible for Families First;
  - (g) The caretaker fails to cooperate with child support requirements as determined by the Department;
  - (h) The case is closed due to non-compliance with work activity requirements; or

(i) The established period of TCC eligibility ends.

Authority: T.C.A. §§ 4-5-201 et seq., 71-3-104(b)(1), 71-1-105, 71-3-108, and 42 USCA § 1315(a).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: December 13, 2013

Signature: [Handwritten Signature]

Name of Officer: Bill Russell  
General Counsel

Title of Officer: Tennessee Department of Human Services



Subscribed and sworn to before me on: December 13, 2013

Notary Public Signature: Debra E. Batts

My commission expires on: May 20, 2014

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Filed with the Department of State on: 12/16/13

[Handwritten Signature]  
Tre Hargett  
Secretary of State

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