

**Service Chapter:** Temporary Assistance for Needy Families 400-19

**Effective Date:** July 1, 2023

### **Overview**

Effective July 1, 2023, Pay After Performance is no longer a requirement and is effective with applications received on or after July 1, 2023. For guidance on applications received prior to July 1, 2023, follow the applicable archived policy sections.

Effective July 1, 2023, the 7-calendar day JOBS/Tribal NEW referral time frame has been changed to 7-business days. For guidance on JOBS/Tribal NEW referral prior to July 1, 2023, follow the applicable archived policy sections.

### **Description of Changes**

- 1. JOBS Participants - Responsibilities 400-19-15-30-20 - New**  
Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.
- 2. JOBS/Tribal NEW Up-front Eligibility Requirements 400-19-35-10 – New**  
Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.
- 3. TANF Pay After Performance Requirements 400-19-40: Overview 400-19-40-05; Individuals Excluded from Pay After Performance Requirements 400-19-40-10; Pay After Performance Individuals 400-19-40-15; Pay After Performance - JOBS Supportive Services 400-19-40-20 – Repealed**  
Sections repealed as Pay After Performance policy has been removed effective July 1, 2023.
- 4. TANF Household Composition (Filing Unit) 400-19-45-05 – Change**  
Pay After Performance policy removed from this section.
- 5. TANF Lifetime Limit - Background Information 400-19-45-35-05 – Change**  
Pay After Performance policy removed from this section.
- 6. Eligibility Rules Governing Participation (Codes) 400-19-50 – Change**  
Pay After Performance policy removed from this section.
- 7. Disqualifying Transfers of Assets 400-19-55-05-35 - Change**  
Pay After Performance policy removed from this section.

8. **Child Support and Spousal Support – Court-Ordered and Voluntary 400-19-55-20-15-02 – Change**  
Pay After Performance policy removed from this section.
9. **Overview 400-19-60-05 – Change**  
Pay After Performance policy removed from this section.
10. **Types of Special Items of Need 400-19-60-10 – Change**  
Pay After Performance policy removed from this section.
11. **Prompt Referral to Child Support Division 400-19-70-35 - Change**  
Pay After Performance policy removed from this section.
12. **Non-Cooperation with Child Support Division 400-19-70-40 - Change**  
Pay After Performance policy removed from this section.
13. **Verified Provider of Care to a Disabled Family Member 400-19-75-10-15-05 – Change**  
Pay After Performance policy removed from this section.
14. **Non-Exempt (Work Eligible) Individuals 400-19-75-10-20 – Change**  
Pay After Performance policy removed from this section.
15. **JOBS Status Change 400-19-75-35 – Change**  
Pay After Performance policy removed from this section.
16. **Referrals for Non-Sanctioned Individuals 400-19-75-40-10 – Change**  
Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.
17. **Referrals for Sanctioned Individuals 400-19-75-40-15 - Change**  
Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.
18. **JOBS or Tribal NEW Participant Moves to Another Human Service Zone 400-19-75-40-25 – Change**  
Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.
19. **Resuming Participation in JOBS or the Same Tribal NEW Program After a Move to Another Human Service Zone 400-19-75-40-25-05 – Change, Housekeeping**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor. Reference to Tribal NEW Coordinator Directory removed, this was missed with ML 3721.

**20. Resuming Participation With a New Tribal NEW Program After a Move to Another Human Service Zone 400-19-75-40-25-10 - Change**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.

**21. Failure or Refusal to Enroll or Participate in the JOBS or Tribal NEW Program 400-19-75-40-30 – Change**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.

**22. Eligibility Worker Responsibility 400-19-75-40-35-05 - Change**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.

**23. JOBS Employment Contractor/Tribal NEW Coordinator Responsibilities 400-19-75-40-35-10 - Change**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.

**24. JOBS Employability Plan 400-19-75-40-40 - Change**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.

**25. Imposing a JOBS or Tribal NEW Sanction on an Open Case 400-19-85-15 Change**

Pay After Performance policy removed from this section.

**26. Imposing a JOBS or Tribal NEW Sanction on a Closed TANF Case 400-19-85-20 - Change**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.

**27. Sanction Impact When Reapplication Occurs During the Sanction Penalty Month 400-19-90-25 - Change**

Seven (7) calendar day changed to seven (7) business day period to contact JOBS Employment Contractor.

**28. Determining the Standard of Need in Various Circumstances 400-19-110-10 - Change**

Pay After Performance policy removed from this section.

- 29. Prorate for Initial TANF Benefit and Adding Persons 400-19-110-25 - Change**  
Pay After Performance policy removed from this section.
- 30. Factors of Eligibility 400-19-150-10 - Change**  
Pay After Performance policy removed from this section.

## **Policy Section Updates**

### **1. JOBS Participants - Responsibilities 400-19-15-30-20**

All non-exempt TANF applicants/recipients are required to participate in the JOBS program and are responsible to:

1. Contact the JOBS Employment Contractor to schedule an orientation appointment within seven (7) business calendar days from the referral print date on the referral notice. The first business day after the referral date is considered day one of the seven (7) business day period;
2. Keep all program related appointments as scheduled;
3. Comply with the goals, objectives and tasks listed on the Employability Plan (EP);
4. Be present at a worksite when scheduled to be there;
5. Participate in federally mandated work activities as required by the EP;
6. Maintain satisfactory progress in all program activities to which assigned.

### **2. JOBS/Tribal NEW Up-front Eligibility Requirements 400-19-35-10**

Unless first determined to be exempt, excluded, or granted good cause for nonparticipation in JOBS, the applicant and any member of the family for whom TANF is requested shall, as a condition of eligibility, comply with requirements of Up-front Job Opportunities and Basic Skills (JOBS) or a Tribal Native Employment Works (NEW) program. Failure to cooperate with Up-front Eligibility requirements will result in denial of the application.

Because a referred individual may contact JOBS or Tribal NEW in advance of their receipt of the JOBS/Tribal NEW Referral, the ~~TANF Eligibility Worker~~ must immediately alert the JOBS Employment Contractor or Tribal NEW of the referral.

Non-sanctioned individuals must:

1. Contact JOBS or Tribal NEW within seven (7) business calendar days from the referral print date of the referral and schedule an orientation appointment. The first business day after the referral date is considered day one of the seven (7) business day period; and

2. Attend the scheduled appointment to complete the program orientation, initial assessment, and employability plan; and
3. Not have quit a job or refused employment without good cause after the application.

Sanctioned individuals must:

1. Contact the JOBS program within seven (7) business calendar days from the referral print date of the referral to schedule an appointment to enroll. The first business day after the referral date is considered day one of the seven (7) business day period; and
2. Attend the scheduled appointment to complete the program orientation, initial assessment, and employability plan; and
3. Complete their Proof of Performance unless they are determined to have good cause; and
4. Not have quit a job or refused employment without good cause after the application date.

If a sanctioned individual who applies after the Sanction Penalty Month or Month of Ineligibility meets the JOBS Up-front eligibility, the sanctioned individual and other eligible individuals in the household are provided a TANF benefit prorated from the application date. (See Section 400-19-90, Curing a JOBS or Tribal New Sanction for individuals who apply during the Sanction Penalty Month or Month of Ineligibility.)

Up-front Eligibility requirement does not apply to:

1. Exempt volunteers;
  2. Individuals added to an ongoing case; or
  3. Individuals in cases that have been reverted to open.
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3. **TANF Pay After Performance Requirements 400-19-40: Overview 400-19-40-05; Individuals Excluded from Pay After Performance Requirements 400-19-40-10; Pay After Performance Individuals 400-19-40-15; Pay After Performance - JOBS Supportive Services 400-19-40-20**  
~~TANF Pay After Performance Requirements 400-19-40~~  
~~Overview 400-19-40-05~~

~~The Deficit Reduction Act of 2005 required states to engage a minimum of one-half of all TANF recipients who are not exempt from the JOBS program in productive work activities leading to self-sufficiency. States are required to report to Health and Human Services (HHS) the actual hours of participation in a TANF work activity by a JOBS participant.~~

~~Effective with new TANF applications received on or after April 1, 2009, 'Pay after Performance' (PAP) policy was implemented, which affects TANF applicants who are required to participate in the JOBS Program. With the submission of each TANF application during the first four (4) months of receipt of TANF benefits, these JOBS participants will receive a TANF grant for their children's financial needs only. Only after they have met their monthly work participation requirements will the JOBS participant receive their portion of the grant as a supplemental benefit.~~

#### **~~Individuals Excluded from Pay After Performance Requirements 400-19-40-10~~**

~~The following individuals are not subject to PAP:~~

- ~~1. Children under age 18 who are attending school fulltime;~~
- ~~2. Caretakers under age 18 who are attending school fulltime;~~
- ~~3. Caretakers in receipt of Supplemental Security Income (SSI), including presumptive SSI;~~
- ~~4. Caretakers in receipt of Social Security Disability (SSDI) benefits;~~
- ~~5. Parents or caretaker relatives, personally providing fulltime care for a child who is under the age of two (2) months;~~
- ~~6. Caretakers age 65 or over;~~
- ~~7. Caretakers who are 'Opted Out'; or~~
- ~~8. Caretakers who have been referred to the Tribal NEW Program.~~

#### **~~Pay After Performance Individuals 400-19-40-15~~**

~~Pay after Performance Individuals are:~~

- ~~1. Eligible caretakers of dependent children to whom they are related within the 5th degree;~~

~~2. Children ages 16-18 and not attending school fulltime.~~

~~Note: Children who are subject to Pay After Performance Requirements are given a participation code of 'OU'. A referral is not made to the Child Support Division until the child meets the Work Requirement and is determined eligible for TANF. Any child support received by the Child Support Division on behalf of that child during the period the child is 'OU' due to Pay After Performance requirements will be released to the household and must be counted as income.~~

~~Pay After Performance Individuals:~~

- ~~1. Must meet the TANF Up front eligibility requirements; and~~
- ~~2. Must meet all non financial and financial factors of eligibility; and~~
- ~~3. Must have their income and assets considered in determining eligibility for the household; and~~
- ~~4. Must participate in the JOBS Program, unless determined to be exempt, excluded, or have 'good cause' for failure or refusal to comply from participation; and~~
- ~~5. Must cooperate, if required to do so, with the Child Support Division in obtaining child support or establishing paternity for any child member of the family; and~~
- ~~6. Are ineligible for their portion of the TANF grant for four (4) months, beginning the month of application, unless they meet the work participation requirements, as determined by the JOBS Employment Contractor.~~

~~While individuals who are subject to PAP are included in the TANF Basic Standard of Need calculation when determining eligibility during the first four months, their financial needs will be deducted from the grant. During the first four (4) months, the financial needs of the individual will be paid as a supplement only after the JOBS Employment Contractor has advised the TANF Eligibility Worker that the individual has met their work participation requirements for the month.~~

~~**Note:** The JOBS Employment Contractor must provide verification, on a monthly basis, as to whether or not the individual has met their work participation requirements for the month.~~



- ~~If the verification indicates the individual met the work participation requirements for the month, that month's benefits will be reprocessed and a supplemental payment issued to meet the individual's financial needs.~~
- ~~If the verification indicates the individual did not meet the work participation requirements for the month, the individual is not eligible to have their financial needs met for the month.~~

**Note:** ~~If the individual did not meet the work participation requirements during the month, the JOBS Employment Contractor should have initiated the 'good cause' determination process.~~

~~Beginning the 5th month, PAP requirements no longer apply. If the individual continues to comply with all requirements of the TANF program, the individual's financial needs will be included in the TANF benefit.~~

#### **~~Pay After Performance – JOBS Supportive Services 400-19-40-20~~**

~~A PAP individual is a TANF household member required to comply with the JOBS Program. Even though their financial needs may not be included during the first four (4) months, they are a JOBS participant and eligible for supportive services.~~

#### **4. TANF Household Composition (Filing Unit) 400-19-45-05**

The TANF household is comprised of individuals who live together where at least one member is in receipt ~~or would be in receipt of TANF if Pay After Performance (PAP) requirements are met.~~ The household must include:

1. A dependent child;
2. The natural, adoptive, or stepparents of the dependent child; and
3. The dependent child's siblings (including half and step-siblings) who are under age 18, or if age 18 will, before the last day of the calendar month in which the sibling attains age 19:
  - a. Complete their training curriculum from a secondary school in order to receive a high school diploma or GED; or
  - b. Complete their training at a vocational or technical school that is equivalent to secondary school.

**Note:** Any of the above members who are temporarily residing away from home must be included in the TANF household.

Parent(s) of the dependent child(ren) who reside in the home must be included, whether or not married. If a parent claims or appears to be incapacitated, incapacity must be explored because additional household members and their income and assets may then have to be included in the unit. Once the TANF household is established, all income and assets of the persons required to be included must be considered in determining eligibility.

A minor parent who resides with a legally or non-legally responsible caretaker is considered a dependent child (and not a caretaker). When the minor parent resides with a legally responsible caretaker, the legally responsible caretaker must be included in the TANF household (three-generation household).

Stepparent(s) must be included in the TANF household. The stepparent will either be eligible for benefits or stepparent budgeting will apply. No stepparent may be included as a second eligible caretaker for the TANF portion of the benefit unless the stepparent has a natural or adoptive child(ren) who is also included in the TANF household.

When a natural or adoptive parent does not reside in the home and the caretaker is a stepparent (who may or may not have a natural or adoptive child in the home), the caretaker (stepparent) as well as the caretaker's children and stepchild(ren) must be included in the TANF household.

**Note:** Effective June 1, 2010, the household must include the stepparent, any natural or adoptive children of the stepparent and stepchildren.

Individuals in receipt of Supplemental Security Income (SSI), including presumptive SSI benefits, are not included in the household size and their income, assets, and expenses are not considered in determining eligibility for TANF. If the person is receiving a zero SSI benefit but is considered an SSI recipient (e.g. due to recoupments, 1619B eligible, etc.) they are not considered as receiving SSI benefits for TANF purposes and the person must be included in the household.

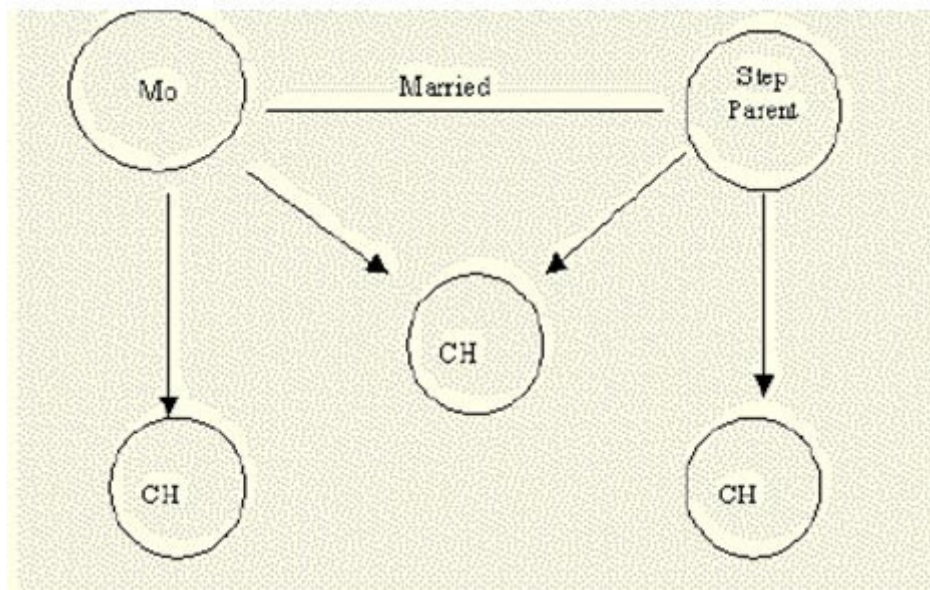
A child for whom a Subsidized Guardianship payment is received is not eligible for TANF and cannot be included in the household.

At times a parent may request that a particular child not be included in the TANF household. The parent has no option in this matter since the household provision requires that all otherwise technically eligible persons must be included in the household. However, a non-legally responsible person (i.e. grandmother, grandfather, aunt, uncle, etc.) may choose not to participate in TANF. (See Section 400-19-140, Kinship Care)

When the only dependent child in the household is a SSI recipient or is disqualified because of noncooperation with program requirements, the parent in the TANF household may remain eligible for benefits if all other factors of eligibility are met, unless the case progresses to close due to a sanction.

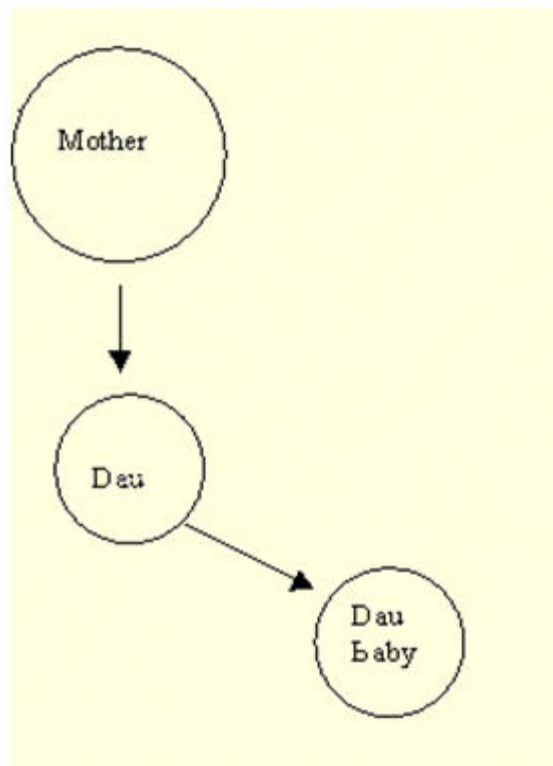
People absent from the household due to employment, training, education, or obtaining medical care are addressed in Section 400-19-45-70-15, Absence Reasons that DO NOT Establish Deprivation.

**Examples of TANF Households:**



1. If one of the stepparents is not incapacitated, disabled or aged, the unit would consist of either the mother and her child or the father and his child.
2. If both stepparents want TANF for their deprived child, the unit would consist of 4 persons with their child in common being ineligible (that child's needs will be unmet).

3. If either stepparent is incapacitated, disabled or aged, the unit will consist of all 5 persons.
4. If one of the stepparents leaves, the unit will consist of 4 members since the child in common is a half-sibling to the stepchild and the stepparent is considered related to the stepchild within the 5th degree.



1. If the minor parent is under age 18, the minor parent is a dependent child in the parent's unit. The minor parent's baby must be included in the household.
2. If the minor parent is under age 18 and the case fails due to the parents' income, the minor parent cannot receive a TANF benefit for the minor parent and the baby.
3. If the parent is age 18 or older, the parent would qualify in their own right and the baby must be included in the parent's household. The baby's grandparent is not eligible.

## 5. TANF Lifetime Limit - Background Information 400-19-45-35-05

Public Law 104-193, The Personal Responsibility and Work Opportunities Reconciliation Act of 1996 prohibits states from providing cash assistance to households where the head of household or spouse of the head of household has received assistance for a total of 60 months, whether or not the months were consecutive. While states have the option to set lower time limits on the receipt of TANF benefits, North Dakota has chosen 60 months. North Dakota implemented this provision effective July 1, 1997.

Based on Federal regulations at (45 CFR 264.1), the count applies and increments for the following individuals who have participation codes of 'IN' or 'OH':

- Adult head-of-household
- Spouse of the head-of-household
- Pregnant minor head-of-household
- Minor parent head-of-household
- Spouse of pregnant minor head-of-household
- Spouse of minor parent head-of-household

**Note:** Count months for a second adult in the household if that adult is not a spouse cannot increment. Count months for unrelated adults such as boyfriends or girlfriends cannot increment.

**Example #1:** Double step-parent household where both parents are 'IN'. The lifetime limit count applies to and increments for both parents.

**Note:** If one of the parents in this household had previously reached the 60-month lifetime limit in another case prior to being added to this case, that parent now makes this household ineligible.

**Example #2:** Intact household where one parent has a participation of 'SS' and the other parent (spouse of the head of household) has a participation of 'IN.' The lifetime limit count applies to and increments for the spouse of the head of household with the 'IN' participation.

**Example #3:** Household where the primary individual has a participation of 'DA' or 'ST' and the spouse has a participation of 'IN.' The lifetime limit count applies to and increments for the spouse of the Primary Individual with the 'IN' participation.

**Example #4:** Household consists of mom, boyfriend and child in common. Mom is the head of household. Due to boyfriend's approved incapacity, all three are receiving TANF. The lifetime limit count applies to and increments for mom. However, boyfriend is not the spouse of the head of household, the lifetime limit does not apply and increment for boyfriend.

Countable months of TANF assistance received by an adult from North Dakota since July 1, 1997, or from any other state TANF program or tribal TANF program will be used to determine when a household reaches the 60-month lifetime limit except for the following:

1. A month in which an adult received TANF assistance while residing on Indian land that had an unemployment rate of 50 percent or greater as defined at N.D.A.C. 75-02-01.2-35.1 will not count towards the 60-month lifetime limit.

Exemption of Indian land is available in the following counties where there is Indian land: Benson, Dunn, Eddy, Mercer, McKenzie, McLean, Mountrail, Nelson, Ramsey, Richland, Rolette, Sargent, Sioux, and Ward.

The automated computer system determines whether or not to count a month based on Living on Indian Land and the unemployment rate for the county in which the individual resides.

2. A month in which an individual is sanctioned or disqualified does not count against the lifetime limit since the individual's needs are removed from the TANF grant.
3. Months that are suspended due to the receipt of an extra check from a recurring source do not count toward the lifetime limit.
4. Months that are issued a zero benefit due to a TANF grant being less than \$10 do not count toward the lifetime limit.
5. ~~A month in which a Pay After Performance Caretaker does not meet the work participation requirements do not count toward the lifetime limit.~~

Any month in which a supplemental benefit is issued for an individual whose financial needs were not previously met must be counted towards the lifetime limit.

Any month in which a TANF grant has been paid and is later determined to be a partial or complete overpayment becomes a count month towards the lifetime limit. The month remains a count month even if the month is corrected and overpayments established.

The eligibility worker must contact all states and Indian tribes in which an adult or minor head of household previously received TANF or Tribal TANF assistance to verify the number of countable months of assistance received.

Under federal law, the number of households that may be exempted from the TANF lifetime limit by the state may not exceed 20% of the average monthly number of households receiving TANF assistance.

Households that include an adult who has reached the 60-month lifetime limit may be allowed an exemption to the TANF lifetime limit in accordance with Section 400-19-45-35-10, TANF Lifetime Limit – Exemption Criteria.

## **6. Eligibility Rules Governing Participation (Codes) 400-19-50**

The automated computer system is programmed with the participation and eligibility rules which govern TANF. These rules determine the participation code which calculates the benefit level for each household based on all factors of eligibility.

Each individual's eligibility to participate as well as their effect on others found eligible are detailed as follows:

- **SSI Recipient (SS):** An individual in receipt of Supplemental Security Income (SSI), including those in receipt of presumptive SSI.

An SSI individual is not included as a member of the TANF household. The income and equity value of all assets owned solely or jointly by any SSI recipient shall be exempt in determining TANF eligibility. SSI Recipients are not eligible to participate in the JOBS Program and are not eligible to receive JOBS Supportive Services.

- **Minor Parent's Parents (MP):** A mother and father (natural or adoptive) who are not otherwise eligible for TANF and who have a child who is a minor parent and the minor parent and minor parent's child reside with them.

The income (but not assets) of the minor parent's parents is considered available to the TANF household and is subject to the same disregards as stepparents when determining eligibility for remaining household member(s). The minor parent's parents are not eligible to participate in the JOBS Program and are not eligible to receive JOBS Supportive Services.

When minor parent budgeting is used, no child support assignments are filed against the parents because their income is already taken into account.

- **Stepparents (ST):** A person married to a parent of a child to whom the person is not the parent either by birth or adoption.

**Note:** The individual will not be treated as a stepparent if the individual has a natural or adopted child residing in the home and is in receipt of TANF.

Stepparent's income and assets are considered, and allowable disregards and expenses are deducted when determining eligibility for remaining household member(s). (See Section 400-19-55-05-20, Stepparent Assets and Section 400-19-55-15-30, Stepparent Income.) Stepparents are not eligible to participate in the JOBS Program and are not eligible to receive JOBS Supportive Services.

- **Ineligible Individuals (OU):**

1. **Ineligible Caretakers (OU):** Caretakers who have children residing with them for whom they are not the parent but to whom they are related within the 5th degree of relationship.

Ineligible caretakers are not included as members of the TANF household and their income and assets are not considered when determining eligibility for remaining household member(s). These individuals are not eligible to participate in the JOBS Program and are not eligible to receive JOBS Supportive Services.

- ~~2. **Pay After Performance Caretakers (OU):** Caretakers who have children residing with them to whom they are related within the 5th degree, who are ineligible for their portion of the TANF grant for four~~



~~months, beginning the month of application, as they are not meeting the Federal Work Requirements.~~

~~Pay After Performance Caretakers are included as members of the TANF household and their income and assets are considered when determining eligibility for remaining household member(s). These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care) and are also eligible to receive Supportive Services.~~

**2. ~~3.~~ Ineligible Household Members (OU):** Individuals who are:

- a. Not related to the Primary Individual within the 5th degree;
- b. Children related within the 5th degree to the Primary Individual but who do not meet the age requirements or are not deprived of parental support and care;
- c. Residing in a public institution for a full calendar month;
- d. Not a resident of the State of North Dakota;
- e. Married caretakers who have a child residing with them, to whom they are not related in the 1st degree; and
- f. Individuals who are not otherwise eligible.

Ineligible Household Members are not included as members of the TANF household and their income and assets are not considered when determining eligibility for remaining household member(s). These individuals are not eligible to participate in the JOBS Program and are not eligible to receive JOBS Supportive Services.

- **Disqualified Alien (DA):** These are individuals who are not US citizens and do not meet the citizenship requirements of the TANF Program.

Disqualified Aliens are not included as members of the TANF household but continue to have their income and assets considered when determining eligibility for remaining household member(s). Disqualified Aliens are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). Disqualified Aliens are not eligible to participate in the JOBS Program and are not eligible to receive JOBS supportive services.

- **Disqualification for Fleeing Felons and Probation/Parole**

**Violators.** Individuals charged or convicted of any felony who has left the jurisdiction of the charging authorities and individuals determined by the court to have violated the terms of their parole or probation from a felony conviction.

Fleeing Felons and Probation/Parole Violators who are disqualified from receiving TANF assistance continue to have their income and assets considered when determining eligibility for remaining household member(s). These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). These individuals are eligible to receive Supportive Services if participating in the JOBS Program.

- **Disqualified Fraud/Misrepresentation of Residence (DF):** An individual who:

1. Has had an Intentional Program Violation (IPV) imposed through court conviction, disqualification consent agreement, or Administrative Disqualification Hearing (ADH); or
2. Has been convicted in federal or state court of having made a fraudulent statement or misrepresentation of their state of residence after July 1, 1997 and has received assistance in more than one state for the same month.

Individuals who are disqualified due to Fraud or Misrepresentation of Residency are disqualified from receiving TANF assistance and continue to have their income and assets considered when determining eligibility for remaining household member(s). These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). These individuals are eligible to receive Supportive Services if participating in the JOBS Program.

- **Disqualified JOBS (DI):** An individual who is disqualified for non-compliance with the JOBS Program.

Disqualified JOBS individuals are disqualified from receiving TANF assistance and continue to have their income and assets considered when determining eligibility for remaining household member(s). These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). These individuals may be eligible to

receive Supportive Services if participating in the JOBS Program (e.g. completing a POP to cure a sanction).

- **Disqualified Child Support (DM):** An individual who is disqualified for non-compliance with the Child Support Division.

Disqualified Child Support individuals are disqualified from receiving TANF assistance and continue to have their income and assets considered when determining eligibility for remaining household member(s). These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). These individuals are eligible to receive Supportive Services if participating in the JOBS Program.

- **Out of Home (OH):** An individual who does not reside in the home whose personal needs are included in the TANF grant.

Out of Home individuals are eligible for a monthly personal needs allowance of \$45, and their income and assets are considered when determining eligibility for remaining household member(s). These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). These individuals are eligible to receive Supportive Services if participating in the JOBS Program.

- **Eligible (IN):** An individual who is or is deemed to be residing in the home and is eligible for TANF, ~~including individuals who meet the Work Requirements during a Pay After Performance period.~~

Eligible individuals are included in the full TANF Basic Standard of Need and their income and assets are considered when determining eligibility for the household. These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). These individuals are eligible to receive Supportive Services if participating in the JOBS Program.

- **Unborn (UB):** The unborn child of a pregnant woman.

## 7. Disqualifying Transfers of Assets 400-19-55-05-35

The transfer of any property without adequate consideration is disqualifying if the transfer was for the purpose of becoming eligible or to remain eligible for TANF. The household's intent, lapse of time between such transfer, and the date of TANF application are among the factors which must be evaluated. The 3 month

period prior to the date of application must be reviewed for the occurrence of a transfer of assets. On-going cases must be periodically reviewed for a disqualifying transfer of assets.

**Note #1:** A transfer of an exempt asset (See Section 400-19-55-05-30, Exempt Assets) is not considered a Disqualifying Transfer.

**Note #2:** Disqualifying Transfer of assets by individuals with participation codes of 'OU' (~~other than due to Pay After Performance~~), 'SS' and 'MP' are not considered disqualifying transfers.

If a transfer is determined to be disqualifying at time of application, the TANF household will be ineligible from receiving TANF benefits for a period beginning with the month of application. For on-going cases, the disqualification period begins the month the transfer took place. The length of disqualification is as follows:

Amount in Excess of Asset Limit	Period of Disqualification
\$ 0 through \$249.99	1 month
\$250 through \$999.99	3 months
\$1000 through \$2999.99	6 months
\$3000 through \$4999.99	9 months
\$5000.00 or more	12 months

If the TANF household member who caused the household's ineligibility due to a disqualifying transfer leaves the household, the remaining household members are no longer subject to the disqualification period if the transferred asset was owned solely by the departing household member. Effective the day following the day in which the individual left the TANF household, the disqualifying transfer will no longer affect the remaining household members.

If the transferred asset was jointly owned with any remaining member of the household, the disqualification period will continue as initially calculated.

If the household member who caused a disqualification moves to another TANF household, a new disqualification period must be calculated for the new household based on the remaining period of disqualification. The disqualification period for the new TANF household is effective the month following the month in which the individual entered the new household.

Household members who leave a disqualified household are no longer subject to the disqualification penalty if the departing member did not own the transferred asset.

Contact State TANF policy for assistance in processing disqualifying transfers for applications received on and after January 1, 2017.

**8. Child Support and Spousal Support – Court-Ordered and Voluntary 400-19-55-20-15-02**

Child support and spousal support received by the household is countable unearned income.

**EXCEPTIONS:**

1. Any support received by the household during the first two prospective months which Child Support Division has credited as a prior months collection is not considered countable income when determining eligibility.
2. Any support collected for the current month by a Clerk of Court, the Child Support Division, an out-of-state collection system, or other disbursement agency which is received and retained by the household after authorization of the application is subject to recovery by the Child Support Division and is not counted as income.

Child support is counted as the child's income.

**EXCEPTION:**

When a household member keeps child support for a child that is not living in the home, the child support is counted as income to the household member that actually received it.

Spousal support is counted as income to the household member for which it is obligated.

Federal tax intercept payments are a non-recurring lump sum and are not counted as income. Federal tax intercept payments are not included in ND~~v~~erify.

State and interstate state tax intercept payments are counted as income as these payments are applied to current support. State tax intercept payments are included in ND~~v~~erify.

The date the payment is considered received is determined as follows:

- If disbursed via check, the date received is two working days after the date on the check.

- If direct deposited, the date received is the date the funds were deposited into the bank account as reflected on the bank statement.
- If deposited onto electronic payment card (EPC), the date received is two working days after the disbursed date in ND~~Verify~~.

When an individual is in receipt of TANF, support assigned to the state is not counted as income.

If support received or assigned during the first prospective month results in ineligibility, the application must be denied.

After initial TANF eligibility is established and authorized, support payments are normally paid to the Department of Human Services. The automated computer system generates a child support alert that child support has been paid to the Child Support Division.

If support received or assigned during the second prospective month results in ineligibility, the case must be closed effective the last day of the first prospective month. The household shall be advised to notify the Worker if support for the second prospective month is not received by the last workday of the month.

If the household notifies the Worker by the last workday of the month following the effective closing date that support was not received or was received in a lesser amount, the case shall be reverted to open without a new Application and eligibility re-determined based on the new information.

**Example:**

A case is closed effective June 30 (the last day of the first prospective month) due to anticipated child support. The household must contact the Worker by the last workday of July if support is not received or received in a lesser amount. If reported by the last workday of July, the case must be reverted to open and eligibility re-determined for July, based on the new information.

If the household fails to contact the Worker by the last workday of the month following the effective closing date, a new application is required. The case must be budgeted prospectively for the first two months and benefits are prorated from the date of the application or date of eligibility, whichever is later.

- A. **Support Received by the Household** - support payments received by a household prior to the date the case is authorized must be counted when determining eligibility and the TANF benefit. This income, along with any support that can be anticipated to be received in the initial two months (whether or not it is assigned to the

State), must be considered when determining eligibility. If the household is financially eligible, only the support received is counted when determining the TANF benefit.

**Note:** Any child support received by the TANF recipient on behalf of a benefit cap child ~~or a child subject to Pay After Performance (PAP) requirements~~ is considered unearned income to the household.

Child Support Division defines the collection month of a support payment as the date on which the payment is received by the Child Support Division. Any support received by the household during the first two prospective months which Child Support Division has credited as a prior months collection is not considered countable income when determining eligibility. For that reason, special care should be taken to identify the collection month on any support received early in either of the initial months.

Any support collected for the current month by a Clerk of Court, the State Disbursement Unit, an out-of-state collection system, or other disbursement agency which is received and retained by the household after authorization of the application is subject to recovery by the Child Support Division. If the Worker becomes aware the family has received support, the family should be advised that the support must be turned over to Child Support Division and the Worker should notify the Child Support Division of the specific situation. Retention of assigned support by the household and a failure to turn over such payments may be referred to the appropriate authority for investigation for welfare fraud. Any retained support should be considered as support assigned.

Voluntary or court ordered support received directly from a responsible or legally responsible obligor after the case is authorized and is retained by the family is treated as a cash contribution, is unearned income, and will be deducted dollar for dollar from the TANF benefit. The Worker is responsible for establishing overpayments if this type of unearned income occurs.

A responsible person is someone who is not yet subject to a court order or someone who has not been legally adjudicated as the father of the child. A legally responsible obligor is someone who is subject to a court order for support.

After the initial two months of eligibility, any support received by the household which is intended for a month in which the family was not in receipt of TANF benefits is treated as a cash contribution. Cash contributions are considered unearned income and deducted dollar for dollar from the TANF benefit.

- B. **Extra Support Received by Household** - Extra support received by a TANF recipient is deducted dollar for dollar from the TANF benefit. Extra money is support received by the Child Support Division, which exceeds the total unreimbursed public assistance.
- C. **Support Retained Offset** - Federal law governs the distribution of support payments.

For a family who is receiving a TANF cash benefit, all support collected that does not exceed the monthly obligated amount for all months the family received TANF must be retained and applied against any UPA. Current support collected which exceeds the total of all the monthly obligated amounts for all months the family received TANF is paid to the family.

**Example:**

A family has \$100 child support owing for the months of January and February, while in receipt of TANF. The family continues to be eligible for TANF and the absent parent pays \$500 support in March. The total UPA for January, February and March is \$250. The state retains \$250 of the \$300 owed for January, February and March and pays \$50 to the family. The remaining \$200 is also paid to the family.

## **9. Overview 400-19-60-05**

Approved special items of need for eligible TANF household members are considered part of the Total TANF Standard of Need. Special items of need are added to the TANF Basic Standard of Need to arrive at the Total TANF Standard of Need.

**Example:** The TANF Basic Standard of Need for one caretaker and one child is \$335. The family also pays \$100 in Health Insurance, which is included in the TANF benefit as a special item of need. The \$100 is added to the \$335 and results in a Total TANF Standard of Need of \$435.00 for this household.



In Kinship Care cases, special items of need, the TANF Standard of Need and Kinship Care maintenance payment are considered part of the Total TANF Standard of Need.

Only eligible TANF household members are eligible for special items of need. Individuals with a participation code of OU (~~except individuals who are OU due to Pay After Performance~~), SS, ST, and MP are not eligible for these payments.

**Exception #1:** Essential Services are also available for the well being of a TANF household member, when the need is due to the medical condition of an individual in the household with the following participation codes:

- SS -- SSI Recipient,
- OU -- Ineligible Caretaker,
- DA -- Disqualified Alien, or
- ST -- Stepparent.

**Exception #2:** The Housing Allowance is a benefit to the TANF household. Therefore, if the household is eligible for TANF, the household will receive the \$50 housing allowance.

All special items of need are to be budgeted and paid prospectively or by supplemental payment after verification is received, with the exception of catastrophic events, which are paid through the Vendor Payment process.

**Note:** Special items of need are not prorated. The TANF benefit will include the full amount of the Special Item of Need.

## 10. Types of Special Items of Need 400-19-60-10

1. **Child Restraint Seat** (N.D.A.C. 75-02-01.2-67) - State law requires that all children younger than seven be secured in a child restraint seat (car seat or booster seat) when riding in any motor vehicle.

Child restraint seats are available in many communities through hospitals, public health agencies, and civic organizations. In collaboration with many public health agencies, TANF will reimburse public health agencies for child restraints provided to TANF recipients. The public health agencies must complete SFN 471, Vendor Payment (TANF), Authorization and Request for

Payment of Goods and Services and send it to the TANF ~~E~~eligibility ~~W~~worker for authorization.

When a child restraint seat is not otherwise available, the household may purchase one and the cost may be reimbursed as a special item of need supplemental benefit once verification of the purchase amount is provided to the TANF ~~e~~eligibility ~~w~~worker.

**Note:** When available, recipients may be required to go through public health agencies where they will be educated on the proper use of child restraints. Recipients should be advised about choosing a model that meets all criteria of the Federal Motor Vehicle safety standards. Because some models do not fit all cars, households should be certain that the model being considered for purchase would be suitable for their vehicle. Additional information is available from the North Dakota Department of Health, 1-800-472-2286.

As a child grows, a larger child restraint seat will be needed. For this reason, TANF can pay for multiple child restraint seats for the same child, provided one is not available through the local hospitals, public health agencies, and civic organizations.

**Example:** If an infant car seat was initially paid for, a booster seat may be paid for based on the child's age/size.

2. **Essential Services** (N.D.A.C. 75-02-01.2-64) - The cost of a service considered essential to the well being of a TANF household member, including an SSI recipient or an ineligible caretaker who is not the parent of a child in the household, shall be provided for in the TANF benefit. If the need for the essential service is related to a special need or condition of a household member, the cost can be met through the TANF benefit. The nature of the infirmity or illness must create a condition where the household cannot perform independently, and services will be considered to meet such needs. The necessary service(s) may require a person in the home temporarily or from outside the home to discharge a specific, transitory need. Medical documentation must substantiate the need for essential services.

Essential services are intended to accommodate such needs as housekeeping duties and/or child/dependent care during a household member's illness or hospitalization, attendant services, and extraordinary costs of accompanying a member of the family to a distant medical or rehabilitation facility.

**Note:** Transportation, lodging and meals for individuals who must travel to a distant medical or rehabilitation facility can be paid through Medicaid, with prior approval. If the household fails to obtain prior approval, or if Medicaid denies the claim as the treatment can be

obtained within the state, the cost cannot be paid under Essential Services.

Essential Services:

- a. Can only be paid if all other resources have been exhausted;
- b. Must be based on negotiation with the provider;
- c. The allowable maximum daily rate for child/dependent care cannot exceed the amount allowed for emergency foster care, which currently is \$35 per day per child;

A provider need not be licensed, self-certified, registered, or an approved relative in order to provide emergency child care. Emergency care that necessitates care of a child shall be limited to three (3) calendar months. Resources other than essential services provided to TANF household members must be explored for placements of longer duration.

3. **GED/High School Graduate Incentive Payment (N.D.A.C. 75-02-01.2-68)** - In order to support the basic philosophy of TANF to promote individual and family self-sufficiency, each eligible TANF household member will receive a \$250 one-time-only incentive payment upon completion of high school or general education development (GED) diploma. The individual must be TANF eligible in the month the individual completes high school or GED requirements.

Verification of completion of high school or GED is required.

4. **Health Insurance Premiums (N.D.A.C. 75-02-01.2-66)** - The cost of a premium for health and hospitalization insurance carried by an individual residing in the home that covers an eligible member of the TANF household can be paid. Health, hospitalization, drug, dental, and/or vision insurance is defined as any contract policy covering loss due to sickness or bodily injury.

**Note:** Specific insurance contracts covering loss due to accident, cancer, or disability, to include Workers with Disabilities enrollment fees or premium amounts, are not allowed as a special item of need payment.

If the policy covers individuals who are not members of the TANF household (stepparents, ineligible caretakers, etc), payment is limited to:

- The portion of the premium for each TANF eligible household member that is allocated by the insurance company; or, if that allocation is unavailable;
- The total premium amount, divided by the number of individuals covered, and then multiplied by the number of TANF eligible household members who are covered by the insurance.

The applicant or recipient must inform the ~~TANF~~ eEligibility wWorker of the insurance. In instances where there is more than one health insurance policy for the same coverage, only one policy of the household's choice shall be paid in the TANF benefit. Payment shall begin in the month in which the ~~TANF~~ eEligibility wWorker is informed of the insurance and receives verification of the cost.

5. **Health Tracks Reimbursement** (N.D.A.C. 75-02-01.2-73) - TANF recipients, including a Benefit Cap child, who complete the Health Tracks screening are eligible for a \$25.00 reimbursement per individual. The reimbursement is available after the completion of the initial screening and the annual Health Tracks screening, provided 12 months have passed between screenings. Completion of the screening, for this purpose, does not include the follow-up appointments or referrals to other physicians that are generated from a screening.

**Example:** An initial screening is completed in August and a \$25.00 reimbursement is issued as a supplement for August. In order to be eligible for the \$25.00 reimbursement again, the individual would need to be screened in August of the following year or thereafter. (August counts as month one (1) of the 12 month period.)

6. **Housing Allowance** – A TANF family (including one whose Primary Individual is a Minor Parent) who has sole responsibility for all housing costs is eligible to receive an additional \$50 per month.

For purposes of this section, a TANF Family includes an individual or group of individuals:

1. Who reside together; and
2. Who are related within the 5th degree by either birth, marriage, or adoption; and
3. Whose needs are included in a TANF benefit (IN) or (OH), or if their needs are not included in the TANF benefit, because the individual is:

- a. In receipt of Supplemental Security Income (SSI) benefits (SS);
- b. An alien who does not meet citizen and alienage requirements (DA - Disqualified Alien);
- c. Ineligible for TANF benefits due to the imposition of a sanction (DI - Disqualified JOBS) or (DM -Disqualified Child Support);
- d. Ineligible for TANF benefit due to being disqualified (DF - ~~Disqualified Fraud~~);
- e. ~~Subject to Pay After Performance requirements;~~
- f. e. A stepparent (ST) or a legal dependent of a stepparent;
- g. f. A minor parent's parents (MP) or a legal dependent of the minor parent's parents.
- h. g. An individual who does not meet the TANF eligibility requirements (e.g. age, citizenship, deprivation, etc.), but is a legal dependent or a legally responsible caretaker of a member of the TANF family (does not include roomers or boarders).

Sole Responsibility for Shelter Costs means the TANF Family is responsible for the full amount of rent or, if purchasing a home, the mortgage, property insurance, property taxes, special assessment, repairs, and improvements of the home.

A TANF family DOES NOT have sole responsibility for shelter costs (and is NOT eligible for the additional \$50 Housing Allowance) if:

1. The family receives a subsidy for housing costs, resides in public housing, receives free housing, or is not solely responsible for the assistance unit's housing costs; or
2. The TANF family includes an individual who is at least eighteen years of age and not a member of the family or is not a legal dependent of a member of the TANF household, including a non-legally responsible relative who opts out of receiving TANF Benefits;
3. Any member of the family receives assistance for the payment of housing costs from someone not residing in the family.

**Exception:** The family receives one month of temporary assistance with their rent or mortgage from an agency (e.g. Community Action, local social service agency, housing/shelter assistance through JOBS supportive services, etc.).

All individuals residing together in the household must be members of the TANF family and the TANF Family must be solely responsible for housing costs in order to be eligible for the \$50 Housing Allowance. If anyone other than a member of the TANF family as defined above reside in the household, the TANF family is not considered to have sole responsibility for all housing costs and therefore, is not eligible for the \$50 Housing Allowance.

**Example #1** – Household consists of mom and three children. No other individuals reside in the household. Mom and her three children are all members of the TANF family. The TANF Family is responsible for rent in the amount of \$600 a month. The rent is not subsidized in any way. The household is eligible for the additional \$50 Housing Allowance.

**Note:** If anyone other than a TANF Family member resided in the home, this household would not be eligible for the \$50 Housing Allowance.

**Example #2** – Household consists of mom, boyfriend, child in common and mom's child from another relationship. All members meet the definition of a TANF Family. The TANF family is responsible for the \$600 per month rent. The rent is not subsidized in any way. The family is eligible for the additional \$50 Housing Allowance.

**Note:** If this household did not include a child in common, all members residing in the home would not be members of the TANF family and thus would not be eligible for the additional \$50 Housing Allowance.

**Example #3** - The family lives in and is buying a home. The family consists of dad and his three children. The family pays the cost of mortgage, property insurance, property taxes, special assessment, repairs, and improvements. Dad's 20-year-old daughter returns home.

- a. If the daughter is a legal dependent, the family would be eligible for the additional \$50 Housing Allowance even if the daughter contributes towards the housing costs.
- b. If the daughter is not a legal dependent the family would not be eligible for the additional \$50 Housing Allowance regardless of whether she contributes towards the housing costs; this since she is not considered a member of the family.

**Example #4** - A minor parent and her child are living with the minor parent's parent (grandmother). This is a three-generation case. The family resides in the minor parent's parents' home. The family pays the cost of mortgage, property insurance, property taxes, special assessment, repairs, and improvements. This family would be eligible for the additional \$50 Housing Allowance.

**Example #5** – Mom and her three children live with mom's mother and father. Mom pays the \$100 per month rent that is charged.

- a. If all reside in one residence, the family is not eligible for the additional \$50 Housing Allowance.
- b. If Mom and her three children reside in a separate, identifiable residence within the home (apartment), the family is eligible for the additional \$50 Housing Allowance.

**Example #6** - Mom and her child share a home with Mom's aunt and aunt's child. Both mom and mom's aunt are primary individuals for TANF families. Neither family is eligible for the additional \$50 Housing Allowance.

**Example #7** – A minor parent and her child are attending and residing at Job Corps in Minot, which provides housing with the training. This family is not eligible for the additional \$50 Housing Allowance.

**Example #8** - A minor parent and her child are living with the minor parent's parents (grandparents). The grandparents are not eligible for TANF. This family is not eligible for the additional \$50 Housing Allowance.

The following circumstances shall not be considered when determining eligibility for the \$50 Housing Allowance:

1. The amount of the rental expense;
2. Whether the rent is actually paid when due, provided the individual remains responsible for the entire amount;
3. The individual is responsible to pay shelter expenses other than rent (e.g. upkeep of the home, utilities, etc.).

7. **Special Projects** - In order to support county demonstration projects, two Special Items of Need are available – Special Projects Incentives and Special Projects Work Subsidies. These special items of need are utilized only with approval from State TANF/JOBS Policy staff.
8. **Unforeseen Circumstances** - There are two different Special Items of Need that are defined as Unforeseen Circumstances. These are:
- a. **Catastrophic Events (N.D.A.C. 75-02-01.2-65)** - In the event of a disaster involving members of the TANF household, the JOBS Employment Contractor or TANF ~~E~~ligibility ~~W~~orker, after exploring the availability of property insurance and community resources, shall authorize the replacement of clothing, furniture, household equipment, and other needed supplies at a level comparable to that maintained by the recipient at the time of the fire, flood, tornado, or other catastrophic event. Community organizations often provide assistance to victims of disasters. The JOBS Employment Contractor or TANF ~~E~~ligibility ~~W~~orker should coordinate assistance with local resources.
- Payment for the replaced of these items shall be authorized and paid by using SFN 471, Vendor Payment (TANF), Authorization and Request for Payment of Goods and Services.
- b. **Unforeseen Circumstances** - The unforeseen circumstances payment is to be used to reimburse a recipient for a payment made in situations that were beyond the individual's control. State office approval is required before making an unforeseen circumstances payment.

**Example:** Reimbursement of late fees paid by the recipient, due to TANF benefits not received timely.

## **11. Prompt Referral to Child Support Division 400-19-70-35**

Federal law requires that the Child Support Division be notified promptly of any child whose eligibility is based on at least one parents' continued absence from the home.

**Note:** ~~Children who are subject to Pay After Performance Requirements are excluded from TANF. A referral is not made to the Child Support Division until the child meets the Work Requirement and is determined eligible for TANF. Any child support received by the Child Support Division on behalf of that child during the period the child is excluded due to Pay After Performance requirements will be released to the household and must be counted as income.~~



A referral to the Child Support Division is required for any child whose deprivation is based on the absence of a parent. A referral to the Child Support Division is not required when both parents are in the home and deprivation is based on incapacity, disability, or age. When a child's deprivation is changed from incapacity to absence of a parent, a referral to the Child Support Division is required for all children affected by the change in deprivation.

A referral to the Child Support Division is not required for SSI or benefit cap children who reside in the household because these children are not included in the TANF benefit.

A custodian under age 18 who resides outside their parental home and whose needs are included in the TANF benefit assigns rights to support against their parents as well as the parent or alleged father of any deprived child for whom the custodian cares. In this instance, referrals are sent to the Child Support Division. At the time the custodian attains age 18, the assignment of rights to support and referral against the parents of the 18-year old end.

The Department of Human Services utilizes automated computer systems to transmit and receive referrals and information for all children deprived of parental support and care due to continued absence. The referral information sent to the Child Support Division is used to establish paternity, locate the absent parent(s), and establish a support order. The referral is transmitted the same evening TANF benefits are issued. Additionally, the Child Support Division will notify the eligibility worker any time information is received that may affect eligibility (i.e. absent parent address the same as the child, etc.).

## **12. Non-Cooperation with Child Support Division 400-19-70-40**

If the Child Support Division notifies the eligibility worker of the custodian's failure to cooperate, the eligibility worker must use this information when determining the custodian's eligibility for assistance.

A custodian who refuses to cooperate with the Child Support Division is ineligible to receive TANF and a sanction will be imposed. If the custodian continues to refuse to cooperate, the sanction will progress to case closure. The custodian has the right to appeal that decision. (See Section 400-19-95, Sanctions for Non-Compliance with Child Support.)

~~Children age 16 or older who are not attending school full time are subject to the four (4) months of Pay After Performance (PAP) requirements and are excluded from TANF. A referral is not made to Child Support Division until the child meets~~

~~the Work Requirement and is determined eligible for TANF. If a Child Support Division non-cooperation alert is received for a child who is excluded from TANF due to Pay after Performance, the custodian of the excluded child cannot be sanctioned.~~

~~If the child's custodian has not cooperated with the Child Support Division at the time the child is no longer subject to PAP requirements, a Child Support Division sanction must be imposed effective with the first month the child is no longer subject to the PAP requirements.~~

If the child for whom the custodian is not cooperating leaves the household, the sanction must be ended effective the last day of the month the child left the household.

### **13. Verified Provider of Care to a Disabled Family Member 400-19-75-10-15-05**

For purposes of this section:

- “Parent” means a parent or caretaker relative who would otherwise be considered a non-exempt caretaker, ~~including a Pay After Performance caretaker.~~
- “Disabled” or “Disability” means the existence of a verifiable physical or mental impairment.
- “Family member” means an individual who is within the fifth degree of relationship to the ‘parent’.
- “Living in the home” means physically residing within the home of the ‘parent’ or spouse.
- “State Exemption Determination Team (SED)” means the TANF/JOBS Policy Unit.
- “Legal Duty to Provide Care” means an individual whose legal responsibility to provide care to an individual is conveyed by marriage, parentage or by court order.

**Note:** Unless ordered by the court, a parent’s ‘Legal Duty to Provide Care’ ends:

1. For a child who turns age 18, the month following the month the child turns age 18; or

2. For a child who is age 18 and will complete their training curriculum from a secondary school or vocational or technical school that is equivalent to secondary school by the last day of the month of their 19th birthday, the month following the month the child completes their training curriculum.

The TANF Program shall exclude from participation in the JOBS Program a parent or spouse who is providing care to a disabled family member if:

1. The disabled family member is “living in the home” and the parent or spouse has a “legal duty to provide care”; and
2. The SEDT has determined that the “family member’s” disability supports the parent’s or spouse’s need to provide care to the disabled family member.

Requests to have the SEDT grant VP exemption to an individual may be initiated by the disabled family member’s parent or spouse, the eligibility worker, or the JOBS Employment Contractor, as described below.

Required Process For Determining If A Parent or Spouse Should Be Considered A Verified Provider Of Care To A Disabled Family Member:

1. The parent or spouse must provide current medical documentation verifying the family member’s disability and supporting the parent or spouse’s need to remain at home to provide full-time care to the disabled family member.
2. The eligibility worker or JOBS Employment Contractor must forward a completed copy of SFN 451 “Eligibility Report on Disability/Incapacity” along with all available medical documentation to the SEDT requesting that VP exemption be granted to the parent or spouse.
3. The SEDT will determine if the VP exemption will be granted. If the SEDT grants VP exemption to the parent or spouse, the parent or spouse will not be required to participate in the JOBS or Tribal NEW Programs.
4. The SEDT will inform the eligibility worker and JOBS Employment Contractor of the determination. If VP exemption is granted, the eligibility worker is informed of:
  - a. The date of the next scheduled review; and
  - b. The information that must be provided to complete the review.

**14. Non-Exempt (Work Eligible) Individuals 400-19-75-10-20**

All individuals who are not exempt or excluded shall be referred to the JOBS or Tribal NEW Program as determined appropriate, and are required to participate to the best of their abilities. Non-exempt individuals are defined as:

1. Any adult receiving assistance under TANF, ~~including individuals subject to Pay after Performance requirements~~;
2. Any minor child head of household receiving assistance under TANF;
3. Any non-recipient caretaker living with a child receiving assistance, including:
  - A caretaker who is sanctioned due to non-compliance with work requirements
  - A caretaker who is disqualified due to intentional program violations
  - A caretaker who is disqualified due to being a fleeing felon
  - A caretaker who is disqualified due to parole or probation violation, or
  - A caretaker who is sanctioned (disqualified) for non-compliance with the Child Support Division

**NOTE:** A caretaker is not eligible to participate in the JOBS Program if they are a:

- disqualified alien,
  - SSI recipient (including presumptive SSI),
  - stepparent,
  - minor parent's parents,
  - Ineligible caretaker related within the 5th degree but not included as a member of TANF
4. Any child, age 16 and older, who is not attending school or who is pursuing a GED.

**15. JOBS Status Change 400-19-75-35**

SFN 323, JOBS Status Change form, or the automated computer system generated JOBS Status form may be used by the TANF Eligibility Worker and the JOBS Employment Contractor to communicate and document pertinent information regarding a JOBS participant. The JOBS Status Change Form may be used:

1. When a permanent record is needed to document approval for adjustments in supportive services;
2. To verify whether or not a Pay After Performance individual met the work participation requirements;
3. 2. To notify the JOBS Employment Contractor that an application has been denied or a case has been closed; and
4. 3. To report employment or other changes.

**16. Referrals for Non-Sanctioned Individuals 400-19-75-40-10**

Referred individuals MUST:

1. Contact the JOBS program within seven (7) business ~~calendar~~ days from the referral ~~print~~ date of the referral to schedule an appointment to enroll. The first business day after the referral date is considered day one of the seven (7) business day period; and
2. Attend the scheduled appointment to complete the program orientation, initial assessment, and employability plan, unless they are determined to have good cause for not attending.

An individual who is referred to JOBS or Tribal NEW (including individuals whose exemption or good cause has ended) are required to contact JOBS or Tribal NEW to schedule an initial appointment within seven (7) business days from the referral ~~print~~ date of the referral. The contact must be made prior to the close of business of the JOBS or Tribal NEW office's last working day within the required seven (7) business calendar day period. The first business day after the referral date is considered day one of the seven (7) business day period.

**Note:** ~~The day after the referral print date is considered day one of the seven (7) calendar day period.~~

This period shall be extended one working day for each workday the JOBS or Tribal NEW office is closed only due to severe weather or other emergencies.

**Note:** The seven (7) business calendar day period shall NOT be extended due to agency closings related to weekends, Federal, State or Tribal holidays.

**Example:** ~~A new TANF applicant is being referred to JOBS or Tribal NEW. The individual's JOBS or Tribal NEW referral form is printed on Monday, June 27. Based on the seven (7) calendar day period, the individual would be required to contact JOBS or Tribal NEW by Monday, July 4. However, JOBS or Tribal NEW office will be closed on Monday, July 4, due to the Independence Day holiday. Because the referral period can only be extended due to severe weather or other emergencies, the individual is required to contact JOBS or Tribal NEW by the close of business on Friday, July 1 (the last working day within the seven (7) calendar day period).~~

**Example:** A new TANF applicant is being referred to JOBS or Tribal NEW. The individual's JOBS or Tribal NEW referral form is printed on Friday, June 23rd. The first business day after the referral date is considered day one of the seven (7) business day period, Monday, June 26th. Based on the seven (7) business day period, the individual would be required to contact JOBS or Tribal NEW by Tuesday, July 4th. However, JOBS or Tribal NEW office will be closed on Monday, July 4th, due to the Independence Day holiday. Because the referral period can only be extended due to severe weather or other emergencies, the individual is required to contact JOBS or Tribal NEW by the close of business on Monday, July 3rd (the last working day within the seven (7) business day).

## 17. Referrals for Sanctioned Individuals 400-19-75-40-15

Referred individual MUST:

1. Contact the JOBS program within seven (7) business calendar days from the print date of the referral to schedule an appointment to enroll. The first business day after the referral date is considered day one of the seven (7) business day period; and
2. Attend the scheduled appointment to complete the program orientation, initial assessment, and employability plan; and
3. Complete their Proof of Performance unless they are determined to have good cause.

An individual who is referred to JOBS or Tribal NEW (including individuals whose exemption or good cause has ended) is required to contact JOBS or Tribal NEW to schedule an initial appointment within seven (7) business days from the print date of the referral. The first business day after the referral date is considered day one of the seven (7) business day period. The contact must be made prior to the close of business of the JOBS or Tribal NEW office's last working day within the required seven (7) business calendar day period.

~~**Note:** The day after the referral print date is considered day one of the seven (7) calendar day period.~~

This period shall be extended one working day for each workday the JOBS or Tribal NEW office is closed only due to severe weather or other emergencies.

**Note:** The seven (7) business calendar day period shall NOT be extended due to agency closings related to weekends, Federal, State or Tribal holidays.

~~**Example:** A new TANF applicant is being referred to JOBS or Tribal NEW. The individual's JOBS or Tribal NEW referral form is printed on Monday, June 27. Based on the seven (7) calendar day period, the individual would be required to contact JOBS or Tribal NEW by Monday, July 4. However, JOBS or Tribal NEW office will be closed on Monday, July 4, due to the Independence Day holiday. Because the referral period can only be extended due to severe weather or other emergencies, the individual is required to contact JOBS or Tribal NEW by the close of business on Friday, July 1 (the last working day within the seven (7) calendar day period).~~

**Example:** A new TANF applicant is being referred to JOBS or Tribal NEW. The individual's JOBS or Tribal NEW referral form is printed on Friday, June 23rd. The first business day after the referral date is considered day one of the seven (7) business day period, Monday, June 26th. Based on the seven (7) business day period, the individual would be required to contact JOBS or Tribal NEW by Tuesday, July 4th. However, JOBS or Tribal NEW office will be closed on Monday, July 4th, due to the Independence Day holiday. Because the referral period can only be extended due to severe weather or other emergencies, the individual is required to contact JOBS or Tribal NEW by the close of business on Monday, July 3rd (the last working day within the seven (7) business day).

**18. JOBS or Tribal NEW Participant Moves to Another Human Service Zone 400-19-75-40-25**

When an individual moves from one human service zone to another, participation in JOBS or Tribal NEW is considered a continuation of service and the individual is not treated as a new participant.

If the individual continues to be serviced by the same JOBS Employment Contractor or the same Tribal NEW agency, a new referral is not required. Anytime an individual relocates and continues to work with the same Tribal NEW agency, an SFN 323, JOBS Status of Change, must be sent to the Tribal NEW agency notifying them of the move.

If there is a change in the JOBS Employment Contractor or Tribal NEW agency, a new referral is required. These individuals must resume involvement in JOBS or Tribal NEW within seven (7) business ~~calendar~~ days from the referral ~~print~~ date of the new referral. The first business day after the referral date is considered day one of the seven (7) business day period. An SFN 323, JOBS Status of Change must be sent to the previous Tribal NEW agency notifying their agency the recipient is no longer working with their agency.

Referrals must be manually mailed to Tribal NEW agencies.

**Sending Human Service Zone:**

Consistent with Service Chapter ~~448-01-40-40~~, the eligibility worker is responsible to complete any unresolved actions in the individual's case prior to transferring the file to the receiving Human Service Zone.

**Receiving Human Service Zone:**

The eligibility worker must:

1. Determine whether the individual should be referred to JOBS or Tribal NEW;
2. If required, create a new referral form in the automated computer system
3. If the referral is being made to a Tribal NEW Program, send a copy of the Tribal NEW referral form to the Tribal NEW office.

**19. Resuming Participation in JOBS or the Same Tribal NEW Program After a Move to Another Human Service Zone 400-19-75-40-25-05**



When an individual moves from one Human Service Zone to another, participation in JOBS or Tribal NEW is considered a continuation of service and the individual is not treated as a new participant. Individuals must resume involvement in JOBS or Tribal NEW without any break in service.

If the individual continues to be serviced by the same JOBS Employment Contractor or the same Tribal NEW agency, a new referral is not required.

If there is a change in the JOBS Employment Contractor or Tribal NEW agency, a new referral is required. These individuals must resume involvement in JOBS or Tribal NEW within seven (7) business calendar days from the referral print date of the new referral. The first business day after the referral date is considered day one of the seven (7) business day period. An SFN 323, Status of Change must be sent to the previous Tribal NEW agency notifying their agency the recipient is no longer working with their agency.

Referrals must be manually mailed to Tribal NEW agencies.

When a new referral is applicable, the individual who moves must resume their participation within seven (7) business calendar days from the referral print date of the new JOBS or Tribal NEW referral. The first business day after the referral print date is considered day one of the seven (7) business calendar day period. This period shall be extended one working day for each workday the JOBS or Tribal NEW office is closed due to severe weather or other emergencies.

**Note:** The seven (7) business calendar day period shall NOT be extended due to agency closings related to weekends, Federal, State or Tribal holidays.

If an individual fails to resume participation with the new JOBS Employment Contractor or Tribal NEW within seven (7) business calendar days from the referral date print on the JOBS or Tribal NEW referral (the first business day after the referral date is considered day one of the seven (7) business day period), the JOBS Employment Contractor or Tribal NEW Coordinator is responsible to initiate the good cause determination process and recommend sanction, if appropriate.

## **20. Resuming Participation With a New Tribal NEW Program After a Move to Another Human Service Zone 400-19-75-40-25-10**

When an individual moves from one Human Service Zone (HSZ) to another, participation in Tribal NEW is considered a continuation of service and the individual is not treated as a new participant. Individuals must resume involvement in Tribal NEW without any break in service. The individual who moves must

resume their participation within seven (7) business calendar days from the referral print date of the new JOBS or Tribal NEW referral. The first business day after the referral print date is considered day one of the seven (7) business calendar day period. This period shall be extended one working day for each workday the JOBS or Tribal NEW office is closed due to severe weather or other emergencies.

**Note:** The seven (7) business calendar-day period shall NOT be extended due to agency closings related to weekends, Federal, State or Tribal holidays.

**Note:** Tribal NEW is also responsible to send a copy of the individual's new Employability Plan (EP) to the HSZ within 30 days from the print date of the JOBS or Tribal NEW referral. If an individual's EP is not received within 30 calendar days, the eligibility worker must contact Tribal NEW to request a copy. (~~Refer to the Tribal NEW Coordinators' Directory.~~)

If an individual fails to resume participation with the new Tribal NEW Program within seven (7) business calendar days from the print on the JOBS or Tribal NEW referral (the first business day after the referral date is considered day one of the seven (7) business day period), Tribal NEW shall immediately return the referral to the eligibility worker. The eligibility worker must initiate the good cause determination process.

## **21. Failure or Refusal to Enroll or Participate in the JOBS or Tribal NEW Program 400-19-75-40-30**

A failure or refusal of a non-exempt individual to participate in the JOBS or Tribal NEW Program occurs any time the individual:

1. Fails to attend a scheduled appointment;
2. Fails to participate in an approved work activity;
3. States an unwillingness to participate in any approved work activity;
4. Fails to contact the JOBS or Tribal NEW within seven (7) business calendar days from the referral print date of the referral to schedule an appointment to begin involvement in the program. The first business day after the referral date is considered day one of the seven (7) business day period;
5. Refuses, despite apparent ability, to maintain satisfactory progress in any approved work activity; or

6. Fails to comply with the requirements of the Employability Plan (EP);

When an individual fails or refuses to participate in JOBS or Tribal NEW, the individual shall be provided an opportunity to present any good cause reason prior to the imposition of a sanction. Either the eligibility worker or the JOBS Employment Contractor may oversee the good cause determination process.

1. The JOBS Employment Contractor oversees the good cause determination process for individuals enrolled in the JOBS Program.

**Exception:** When an individual moves and must resume participation in a new Tribal NEW Program, the eligibility worker is responsible to initiate the good cause determination process and impose a sanction, if appropriate. (See Section 400-19-75-40-25-10, Resuming Participation With a New Tribal NEW Program after a Move to Another Human Service Zone).

2. The eligibility worker oversees the good cause determination process when an individual fails to enroll in JOBS or Tribal NEW. The JOBS Employment Contractor or Tribal NEW staff must notify the eligibility worker when an individual fails to enroll. This can be accomplished by returning the referral or sending an electronic or hard copy notification.

**Exception:** When an individual moves and must resume participation in the same Tribal NEW, Tribal NEW is responsible to initiate the good cause determination process and recommend sanction, if appropriate. (See Section 400-19-75-40-25-05 Resuming Participation in JOBS or the Same Tribal NEW Program after a Move to Another Human Service Zone).

**Note:** A good cause determination meeting is not required in instances where an individual fails to comply with JOBS Up-front eligibility requirements (which may include completion of a Proof of Performance). (See Section 400-19-75-40-35-05, Eligibility Worker Responsibility).

## **22. Eligibility Worker Responsibility 400-19-75-40-35-05**

When an individual is required to contact JOBS or Tribal NEW and then fails to schedule or schedules but does not show for the appointment, the JOBS Employment Contractor or Tribal NEW Coordinator is responsible to notify the eligibility worker.

1. When an individual fails to contact JOBS or Tribal NEW as required, and the JOBS Up-front eligibility requirement applies, the individual's TANF application shall be denied.

**Note:** A good cause determination meeting is NOT held in this instance since the individual's failure to comply does not result in a sanction but, instead, denial of the TANF application.

2. When an individual fails to contact JOBS as required and the JOBS Up-front eligibility requirement does NOT apply:

- a. The eligibility worker is responsible to send a Good Cause Determination notice to the individual within two (2) days from the date of receipt of notification of non-compliance.
- b. The individual is required to schedule an appointment and meet with the eligibility worker within seven (7) business calendar days from the print date of the good cause determination notice to show good cause for the failure or refusal to participate. The first business day after the print date is considered day one of the seven (7) business day count. The meeting may be held by phone or in person.

**Note:** Since individuals must be allowed 'due process', good cause meetings cannot be held prior to the individuals scheduled meeting unless the individual requests the meeting be rescheduled to an earlier date. Documentation of the individuals request to reschedule must be included in the casefile.

- c. After assessing the good cause claim and information received during the good cause meeting, the eligibility worker has the following options:
  - i. When good cause for non-cooperation exists, the individual will be re-referred to JOBS or Tribal NEW (A new referral must be created.); or
  - ii. When good cause exists for continued non-participation in JOBS or Tribal NEW, a review date must be established to re-evaluate the basis for good cause; or
  - iii. When it is determined that good cause does not exist, the eligibility worker will impose a JOBS sanction.
- d. If an individual fails or refuses to participate in the good cause determination process, or if the eligibility worker determines that the individual did not show good cause for the initial failure or refusal to participate, the eligibility worker shall notify the individual of the sanction. (See Section 400-19-85-15, Imposing a JOBS Sanction on an Open Case, when the JOBS Employment Contractor makes the good cause determination)

### 23. JOBS Employment Contractor/Tribal NEW Coordinator Responsibilities 400-19-75-40-35-10

The JOBS Employment Contractor or Tribal NEW Coordinator is responsible to oversee the good cause determination process for individuals already involved in JOBS or Tribal NEW who are not complying with JOBS or Tribal NEW requirements.

The JOBS Employment Contractor or Tribal NEW Coordinator is responsible to send a Good Cause Determination notice to the individual within two (2) days after learning of the individual's failure or refusal to comply. The JOBS Employment Contractor or Tribal NEW Coordinator must meet with the JOBS or Tribal NEW participant within seven (7) business days from the date the notice is sent to determine good cause. The first business day after the date the notice is sent is considered day one of the seven (7) business day period. The meeting may be held by phone or in person.

A Good Cause Determination notice shall offer the individual an opportunity to show good cause for the failure or refusal to comply and must state:

1. The date, time, place, and reason for the Good Cause Determination meeting with the JOBS Employment Contractor or Tribal NEW Coordinator; and

**Note:** The ~~TANF~~ Eligibility ~~W~~orker should review the Good Cause Determination notice to ensure the inactions leading to the non-compliance are included in the Employability Plan (EP).

2. A sanction will be recommended if the participant:

- a. Does not attend the good cause meeting; or
- b. Does not show good cause for failure or refusal to participate, as required.

**Note:** Since individuals must be allowed 'due process', good cause meetings cannot be held prior to the individuals scheduled meeting unless the individual requests the meeting be rescheduled to an earlier date. Documentation of the individuals request to reschedule must be included in the casefile.

The JOBS Employment Contractor or Tribal NEW Coordinator is responsible to review the individual's good cause claim, if presented, to determine if a

recommendation for sanction is appropriate. If the JOBS Employment Contractor or Tribal NEW Coordinator determines that good cause exists, written notification must be sent to the TANF Eligibility Worker and the participant advising that a sanction will not be recommended, and that the participant:

1. Is re-engaged in work activities under the JOBS or Tribal NEW Program; or
2. Has demonstrated that limitations exist that warrant a modified EP. The JOBS Employment Contractor, Tribal NEW Coordinator or the TANF Eligibility Worker also may pursue temporary excusal from participation in JOBS or Tribal NEW. (See Section 400-19-75-20-10, Good Cause – State Review Team (SRT).)

If the JOBS Employment Contractor or Tribal NEW Coordinator determines that the individual did NOT participate in the good cause determination process, or the individual participated but did NOT show good cause for the failure or refusal to participate, written documentation will be provided to the TANF Eligibility Worker recommending that a sanction be imposed. A detailed chronological history of the individual's failure or refusal to participate, the individual's good cause reason (if a good cause reason was provided), and any actions taken by the JOBS Employment Contractor or Tribal NEW Coordinator must be included.

**Note:** A sanction recommended by Tribal NEW has the same impact on a participant, and will be processed by the TANF Eligibility Worker in the same manner, as a sanction recommended by the JOBS program.

#### **24. JOBS Employability Plan 400-19-75-40-40**

The JOBS Employment Contractor shall develop an Employability Plan (EP) in consultation with the participant and others, as appropriate. (An EP is not a contract and the participant's signature is not required in order for the plan to be enforced.) The EP shall establish the individual's employment goals based on the work assessment and the individual's plan for obtaining and retaining unsubsidized employment with a wage great enough to become self-sufficient. The EP must outline the steps necessary for the participant to move into allowable work activities that match the individual's capabilities based on any identified physical, mental, emotional, or intellectual impairment.

The cooperation, assistance, and consultation of the participant are important to the appropriateness of the EP but are not required. An individual refusing to sign an EP is still required to comply with its requirements. For participant's who refuse to sign, an attempt must be made to obtain a signature, as a signed plan should be on file in case of appeal situations.

**Note:** If an EP is completed by telephone, the JOBS Employment Contractor will send the unsigned EP to the TANF Eligibility Worker with

a note that the signature is being pursued. The ~~TANF Eligibility W~~worker should follow the requirements of the unsigned EP.

Electronic or handwritten signature is acceptable on the EP.

The initial EP must be completed within seven (7) business calendar days from the date of the initial meeting between the JOBS Employment Contractor or Tribal NEW Coordinator and the participant. The first business day after the referral print date is considered day one of the seven (7) business day period. Copies of the initial EP should be provided to the participant and the ~~TANF Eligibility W~~worker.

The Employability Plan (EP) must:

1. Contain an employment goal to move the participant immediately into approved work activities that match the participant's capabilities based on any identified physical, mental, emotional, or intellectual impairment;
2. Describe any reasonable accommodations needed to enable the participant to comply with program requirements;
3. Describe the supportive services to be provided to enable the participant to comply with program requirements;
4. Describe the steps to be taken by the participant to achieve self-sufficiency; and
5. Describe the progress the participant has made since the previous Employability Plan.

EP's should be a fluid document that reflects changes in the JOBS participant's life. The EP must be reviewed a minimum of two times per year, and relevant changes made based on the individual's progress and needs.

Whenever an individual needs to complete a Proof of Performance (POP), whether they are an applicant or recipient, the JOBS Employment Contractor must document on the EP the length of the POP period and the steps necessary to cure the JOBS Sanction.

For information regarding a Tribal NEW participant's EP, please see Section 400-19-80-35, Tribal NEW Employability Plans.

**25. Imposing a JOBS or Tribal NEW Sanction on an Open Case 400-19-85-15**

Effective June 1, 2005, once a JOBS or Tribal NEW sanction takes effect; it will remain in effect until:

1. It is cured, as required, by the sanctioned individual;
2. The sanctioned individual becomes exempt; or
3. The sanctioned individual is granted good cause.

A recommendation for sanction is received from the JOBS Employment Contractor or Tribal NEW Coordinator. When recommending a sanction, the JOBS Employment Contractor or Tribal NEW Coordinator must provide the eligibility worker with written documentation supporting the sanction recommendation, including a detailed chronological history of the individual's failure or refusal to participate along with any action(s) taken by the JOBS Employment Contractor or Tribal NEW Coordinator.

Before a JOBS sanction may be imposed against an individual, the individual must be given an opportunity to show good cause through the good cause determination process. The final determination to impose a JOBS sanction remains with the eligibility worker.

**NOTE:** When a sanction has been recommended by the JOBS Employment Contractor or Tribal NEW Coordinator, the eligibility worker will not conduct another good cause determination but is responsible to review the case (as described in the previous paragraph) to determine if a sanction is appropriate.

The eligibility worker must make a sanction determination within five (5) working days from the receipt of the Recommendation for Sanction form. Once the eligibility worker has made a decision, the form must be completed, indicating the decision, and returned to the JOBS Employment Contractor.

**Note:** An exempt volunteer may not be sanctioned for non-cooperation.

Prior to imposing a sanction recommended by a JOBS Employment Contractor or Tribal NEW Coordinator, the eligibility worker must:

1. Review the documentation received from the JOBS Employment Contractor or Tribal NEW Coordinator to ensure that the individual was provided an opportunity to present their good cause claim;
2. If a good cause claim was made, the eligibility worker must determine whether they are in agreement with the JOBS Employment Contractor or



Tribal NEW Coordinator's preliminary determination that the individual failed to show good cause.

When a sanction is imposed, the sanctioned individual's financial needs are removed from the household's TANF benefit for one month. This is referred to as the Sanction Penalty Month. If eligible, the financial needs of the remainder of the household can be met during the Sanction Penalty Month.

The sanctioned individual must serve the one-month penalty even if the individual becomes exempt, is granted good cause, or cures the sanction. (See Section 400-19-85-35, Effect of Exemption, Temporary Good Cause and Changes in Participation on JOBS or Tribal NEW Sanctions, for additional information.)

**Note:** A JOBS or Tribal NEW sanction becomes fixed in time as of the effective date, and the Sanction Penalty Month must be served. When the TANF case which progressed to close is later reverted to open, the Sanction Penalty Month is applicable and must be served. (See Section 400-19-110-30, Revert to Open Following Case Closure.)

If a sanctioned individual who is ~~Pay After Performance~~, sanctioned for JOBS/Tribal NEW or Child Support non-cooperation, disqualified for fleeing felon, probation/parole violators, fraud/misrepresentation of residence or is out of home fails to cure a sanction with a cure date equal to the Sanction Penalty Month (by successfully completing a Proof of Performance), the entire TANF case will close at the end of the Sanction Penalty Month. This is referred to as Sanction Progression.

If a sanction progresses to case closure, the entire household will be ineligible for TANF in the month following the Sanction Penalty Month. This is referred to as the Month of Ineligibility.

**Example:** An individual is sanctioned effective January 1st. The individual's financial needs are removed from the household's January TANF benefit. The individual does not cure the sanction in the Sanction Penalty Month (January), the entire TANF case closes January 31st.

If the sanctioned individual reapplies for TANF during the month of February (the Month of Ineligibility), the application is denied. The entire household is ineligible for TANF during the month of February. (See Section 400-19-85-35, Effect of Exemption, Temporary Good Cause and Changes in Participation on JOBS Sanctions).

A sanction cannot be imposed on the last two working days of the month as the benefit amount for the future month cannot be decreased without adequate notice.

Instead, a JOBS or Tribal NEW sanction will result in the creation of an overpayment. The eligibility worker must wait until the first day of the next month to impose the sanction which will become effective for the benefit month equal to the current calendar month. The TANF JOBS Sanction notice will provide the household with adequate notice of the adverse action.

**Note:** When imposing a JOBS or Tribal NEW sanction for a current month (i.e., sanction imposed in January to be effective for the month of January), the sanction must be imposed no later than the 15th of the month. When the 15th falls on a weekend or holiday, the sanction must be imposed no later than the next business day. If the sanction is not imposed by the 15th of the month or the next business day should the 15th fall on a weekend or holiday, the eligibility worker must disregard the sanction. If the individual continues to be out of compliance, a new recommendation for sanction should be made and the sanction process is to start over.

Sanctions under TANF follow the responsible individual.

## **26. Imposing a JOBS or Tribal NEW Sanction on a Closed TANF Case 400-19-85-20**

A JOBS or Tribal NEW sanction can be imposed against an individual in the month immediately following case closure, if all of the following criteria are met:

1. The eligibility worker received the recommendation for sanction prior to case closure; and
2. Good cause determination was offered with proper notice provided, i.e., the individual was properly notified of their opportunity to show good cause for the failure or refusal to participate; and
3. The participant either failed to show good cause or failed to attend the good cause meeting within the allowed time period (seven (7) business calendar days from the print date of the good cause determination notice, the first business day after the referral date is considered day one of the seven (7) business day period).

After determining that the above criteria have been met, the eligibility worker shall:

1. Impose the sanction;
2. Send a sanction notice to the household;
3. Complete and return the Recommendation for Sanction form to the JOBS Employment Contractor or Tribal NEW Coordinator.

When imposing a JOBS or Tribal NEW sanction for a current month (i.e., sanction imposed in January to be effective for the month of January), the sanction must be imposed no later than the 15th of the month. When the 15th falls on a weekend or holiday, the sanction must be imposed no later than the next business day. If the sanction is not imposed by the 15th of the month or the next business day should the 15th fall on a weekend or holiday, the eligibility worker must disregard the sanction.

**Example #1:** A sanction recommendation is received from JOBS or Tribal NEW on January 30th. The eligibility worker determines that a sanction is appropriate but there is not enough time to reduce the household's February benefit with adequate notice.

The eligibility worker waits until the first working day of the next month (February) to impose the JOBS or Tribal NEW sanction, effective February 1st. The eligibility worker creates and sends both a TANF JOBS Sanction notice and an Overpayment Notice to the household if the JOBS or Tribal NEW sanction results in an overpayment. Recoupment of the February overpayment will begin with the household's next TANF benefit.

**Example #2:** A TANF case closed January 31st. A sanction recommendation is received from JOBS or Tribal NEW on February 1st. Since the recommendation was received **after** the case closure date, the sanction cannot be imposed.

## **27. Sanction Impact When Reapplication Occurs During the Sanction Penalty Month 400-19-90-25**

If an otherwise eligible, sanctioned individual reapplies for TANF during the Sanction Penalty Month, the otherwise eligible members of the household may not receive a TANF benefit until the sanctioned individual meets the JOBS Up-front eligibility requirement, to include a Proof of Performance (POP). A new JOBS or Tribal NEW referral must be created and sent.

A sanctioned individual must:

1. Contact the JOBS Employment Contractor or Tribal NEW Coordinator within seven (7) business days from the print date of the referral (the first business day after the referral date is considered day one of the seven (7) business day period) and schedule an appointment to begin a POP; and
2. Start the POP as scheduled; and
3. Comply with the requirements of the POP; and

4. Fully complete the POP. (Due to the timeframe to complete a POP, the 30 day application processing timeframe may need to be extended.)

If the sanctioned individual does not successfully complete the POP, the sanctioned individual has NOT met the JOBS Up-front eligibility requirement and the TANF application will be denied.

If the sanctioned individual successfully completes the POP, the individual has met the JOBS Up-front eligibility requirement and the sanction is considered cured. The eligibility worker must end the current sanction.

A sanctioned individual's needs cannot be included in the grant during the Sanction Penalty Month even if the tasks necessary to cure the sanction are completed.

## **28. Determining the Standard of Need in Various Circumstances 400-19-110-10**

Household composition and size determines the Standard of Need to be used when determining eligibility for TANF Benefits. TANF cases, where the Caretaker/Relative chooses to be excluded from the TANF Benefit or has been disqualified and cannot cure the disqualification are referred to as 'Child Only Cases'.

- Households where the Caretaker/Relative(s) has a participation code of 'OU', 'SS', 'DA', 'DD', or 'DF', will be considered 'Child Only Cases'. When determining the grant amount using the TANF Basic Standard of Need Chart, the row for -0- Eligible Caretakers will be utilized.
- Households where the Caretaker/Relative(s) is eligible, ~~whether or not the caretaker is subject to Pay After Performance~~, or has a Participation Code of 'DI' (Disqualified – JOBS Sanction) or 'DM' (Disqualified – Child Support), will not be considered 'Child Only Cases'. The Caretaker/Relative will be included in the Standard of Need, and a deduction of \$237 for one Caretaker or \$335 for two caretakers will be made from the TANF Basic Standard of Need.

The following case types illustrate the appropriate TANF Basic Standard of Need:

1. If the only legally responsible caretaker is eligible (IN) for TANF, the TANF Basic Standard of Need is based on one caretaker and the number of eligible children.

2. If the only legally responsible caretaker is a pregnant woman and is eligible (IN) for TANF and in her third trimester with no other eligible children, the TANF Basic Standard of Need is based on one caretaker with zero children.

**Note:** If the pregnant legally responsible caretaker has other eligible TANF children, the TANF Basic Standard of Need does not consider the needs of the unborn.

3. If the only legally responsible caretaker is disqualified for reasons of non-compliance with JOBS or Child Support (DI or DM) the TANF Basic Standard of Need is based on one caretaker and the number of eligible children.
4. If a child is determined to be a Benefit Cap child, even though that child is not eligible to receive a TANF benefit, the child is included in the TANF Basic Standard of Need. The TANF Basic Standard of Need is based on one caretaker, the Benefit Cap child, and any other eligible children.
- ~~5. If the only legally responsible caretaker is subject to the Pay After Performance (PAP) requirements, the TANF Basic Standard of Need is based on one caretaker and the number of eligible children.~~
6. 5. If the only legally responsible caretaker is disqualified for reasons of their Alien or Fraud status, (DA or DF), the TANF Basic Standard of Need is based on zero caretakers and the number of eligible children.
7. 6. If the only legally responsible caretaker is an SSI recipient (SS) the TANF Basic Standard of Need is based on zero caretakers and the number of eligible children.
8. 7. If a child, who is a mandatory household member in the TANF household, is an SSI recipient (SS), the child is not TANF eligible and is not included in the TANF Basic Standard of Need. The TANF Basic Standard of Need is based on the caretaker and any other eligible children.

In each of the above situations instances, if there are two legally responsible caretakers, the TANF Basic Standard of Need is based on the status of each caretaker and the number of eligible children.

The following case types illustrate the appropriate TANF Basic Standard of Need when the caretaker is non-legally responsible:

1. If the non-legally responsible caretaker is eligible (IN) for TANF, the TANF Basic Standard of Need is based on one caretaker and the number of eligible children for whom TANF is requested.
2. If the eligible, non-legally responsible caretaker is subsequently disqualified for reasons of non-compliance with JOBS or Child Support (DI or DM), the TANF Basic Standard of Need is based on one caretaker and the number of eligible children for whom TANF is requested.
3. If the non-legally responsible caretaker opts out (OU) for TANF, the TANF Basic Standard of Need is based on zero caretakers and the number of eligible children for whom TANF is requested.
4. If the ineligible, non-legally responsible caretaker is disqualified for reasons of non-compliance with Child Support (OU) the TANF Basic Standard of Need is based on zero caretakers and the number of eligible children for whom TANF is requested.
5. If the non-legally responsible caretaker opts in for TANF and is disqualified for reasons of their Fraud status (DF), the TANF Basic Standard of Need would be for zero caretakers and the number of eligible children for whom TANF is requested.

A household consisting of eligible caretaker(s) and children may have related children residing with them for whom the caretaker has no legal responsibility but who are also eligible for a TANF benefit. In this instance, the TANF Basic Standard of Need is determined by combining the total number of eligible children residing in the household with the appropriate number of eligible caretakers.

## **29. Prorate for Initial TANF Benefit and Adding Persons 400-19-110-25**

Benefits for an applicant household applying for TANF are prorated from the date of application or date of eligibility whichever is later. If there has not been a break in TANF assistance received in North Dakota for at least one full calendar month, benefits will be determined consistent with the prospective or retrospective budgeting methodology that applies for the case. (See sections 400-19-105-15 Prospective Budgeting; or Section 400-19-105-20 Two-month Retrospective Budgeting.

When an individual is added to an ongoing case, the individual's benefits are prorated from the date of request to be added or the date of eligibility, whichever is later. If the individual being added to an existing TANF household received TANF benefits in North Dakota or another State in the month prior to the month being added, the individual's benefit must be determined effective the 1st day of the month of request.

The following describes how prorated benefits are determined:

**Prorating Cases** - The automated computer system determines the prorated benefit amount for a case by:

1. Adding the TANF Basic Standard of Need (plus the \$45 OH Allowance or Kinship Care maintenance payment if applicable) for the household size;
2. Subtracting the total countable income to arrive at the Benefit Amount;
3. Determining dollar amount for which the case is not eligible based on the benefit start date; and
4. Subtracting that amount from the Benefit Amount.

**Example:** The household of one caretaker and three dependent children applies for TANF July 10th. The household has \$500 earned income per month and a \$100 Health Insurance Premium. ~~The caretaker is subject to Pay After Performance (PAP) requirements~~

Total Gross Earned Income		500.00
Standard Work Expense	-	180.00 (500 x 27%)
TANF TLP Disregard	-	160.00 (320 x 50%)
Countable Earned Income	=	160.00
Unearned Income	+	0.00
Total Countable Income	=	160.00
Non-HH Member Deduction	-	0.00
Expenses	-	0.00
Adjusted Net Income	=	160.00
Standard of Need	-	533.00 (1 caretaker and 3 children)
OH Allowance	+	0.00

Adjusted Net Income	-	160.00
Benefit Amount	=	373.00
Prorated Benefit Amount	=	264.00 (373.00 - 108.28) (9 days divided by 31 = 29.03 %; 373.00 x 29.03 = 108.28 is the amount ineligible for)
Benefit Cap Deduction	-	0.00
Sanction/Wrk Req Deduction	-	<del>237.00</del>
Adjusted Benefit Amount	=	<del>27.00</del> <u>264.00</u>
TANF Special Items of Need	+	100.00
Kinship Care	+	0.00
Transition Assistance	+	0.00
Adjusted Net Benefit	=	<del>427.00</del> <u>364.00</u>
Recoupments	-	0.00
Benefit Amount	=	<del>427.00</del> <u>364.00</u>
Previously Paid	-	0.00
Net Benefit Amount	=	<del>427.00</del> <u>364.00</u>
JOBS Supportive Services	=	0.00
Previously Paid JOBS SS	-	0.00
Net Supportive Services	=	0.00
Benefit Issued	=	<del>427.00</del> <u>364.00</u>

**Note:** When prorating benefits, the percentage of the month for which the case is not eligible is determined. Since the household applied on the 10th day of the month, this means the household is not eligible for 9 days of the month.



**Prorating for Individuals** - The automated computer system determines the Standard of Need for all members of the household including the new person being added, and subtracts countable income to determine the new benefit amount. The old benefit amount (prior to the new person being added) is then subtracted from the new benefit amount (after the new persons is added). The result is then prorated based on the benefit start date for the new member being added.

**Note:** To determine the prorated amount, the automated computer system determines how much of the month's benefit the individual is not eligible for and subtracts that amount from the new benefit amount.

### **Prorating for Cases and Individuals**

When a household is prorated from the application date (case prorating) and an individual is prorated from a date after the application date (individual prorating), the automated computer system will first determine case prorating by prorating all members present in the household at the time of the application.

**Note.** The system does this by determining how much of the month the household is not eligible for and then subtracts the result from the benefit amount (TANF Basic Standard of Need (plus the \$45 Out of Home allowance or Kinship Care maintenance payment when applicable) minus any countable income).

The system then completes the individual prorating for the person eligible from the date of entry to the household following the policy listed above. The individual's prorated amount is added to the prorated amount of the other household members to arrive at the total benefit amount.

This occurs when there is a new application and an individual is added to the household on a date after the application date. The date of eligibility for the added household member(s) will be different from the date of application for the other household members.

(Refer to the TANF Benefit Prorate Table on the County Intranet under TANF Hard Cards.)

## **30. Factors of Eligibility 400-19-150-10**

Eligibility for Transition Assistance may be established if:

1. The household was eligible under TANF for the month immediately preceding the month in which the family became ineligible; and

**Note:** Households cannot become eligible for Transition Assistance in an application month. Therefore, a household is not eligible for Transition if the case closed at the end of the month prior to the month the family applied for TANF and was determined ineligible.

**Example:** Ongoing TANF case closed December 31st. The family reapplies for TANF in January and is found ineligible for TANF due to excess earned income. The application must be denied as the household cannot be found eligible for Transition as it is an application month.

2. The household became ineligible for TANF benefits due to earned income; and

**Note:** The excess earned income failure cannot be due to the receipt of an extra check from a recurring source or the loss of the earned income disregards due to unreported income.

3. All other TANF eligibility requirements are met.

A household with countable earned and unearned income may be eligible for Transition Assistance if the household would have remained TANF eligible based on the countable unearned income only (gross amount minus allowable expenses).

Effective with the Benefit Month of August 2011, once a TANF case is found eligible for Transition Assistance, the case will remain eligible for the entire 6 consecutive month period, unless:

1. The household would be eligible for a regular TANF benefit (~~benefit amount prior to the Pay After Performance deduction~~) of \$200 or more; or
2. The household no longer meets all of the TANF eligibility requirements.
3. The household no longer has countable earned income to use for the month Transition Assistance is being determined.

If, during a Transition Assistance period, the household receives an extra check from a recurring source of income and counting the extra check results in a TANF grant of under \$200.00, the household remains eligible for Transition Assistance. The Transition Assistance benefit is not suspended, the month counts towards the six consecutive month period, and the household is eligible for the \$200.00 Job Retention benefit, JOBS Supportive Services and Special Items of Need.

Transition Assistance cannot be approved or, once approved cannot continue and must be closed if the individual whose earned income caused the failure is:

1. An individual sanctioned due to non-compliance with JOBS (DI);
2. A minor parent who is not the head-of-household (IN);
3. An alien who is ineligible to receive assistance due to their immigration status (DA);
4. An individual in receipt of Supplemental Security Income (SSI) benefits (SS);
5. An individual who loses their earned income disregards due to unreported income.
6. A caretaker relative who chooses to be ineligible ('OU' - for reasons other than Pay After Performance).

~~A household that includes an individual whose financial needs are not included in the benefit due to the Pay after Performance requirements may be eligible for Transition Assistance.~~

~~**Note:** The TANF Eligibility Worker must contact TANF policy to have the Meets Work Participation indicator set to 'Yes' for the individual for the future month.~~

Prior to authorizing eligibility for Transition Assistance, the TANF ~~E~~ligibility ~~W~~orker should consider the following factors:

1. Whether the child support income exceeds the sum of Special Items of Need potentially available under Transition Assistance;
2. Whether the recipient incurs child care expenses;
3. Whether the recipient is in favor of meeting the continued TANF eligibility requirements applicable to Transition Assistance (e.g. monthly reporting, child support assignment, JOBS program participation and lifetime limit).

When a Transition Assistance household fails or refuses to comply with TANF eligibility requirements, the Transition Assistance case must be closed. Upon reapplication for assistance, the household cannot resume eligibility under Transition Assistance. Instead, eligibility for the household must be determined under "regular" TANF or Diversion Assistance.

The portion of the Transition Assistance benefit determined Unreimbursed Public Assistance (UPA) is the amount paid for job retention and any transportation allowance paid during a month the individual was not employed.

Once a benefit is paid, the case cannot be switched from Transition Assistance to "regular" TANF or "regular" TANF to Transition Assistance, when reworking the paid benefit month.

SFN 323, "JOBS Status Change" (or other means acceptable to the Employment Contractor) must be provided to the JOBS Employment Contractor whenever there is a change in eligibility from "regular" TANF to Transition Assistance or from Transition Assistance to "regular" TANF.