

Service Chapter: TANF 400-19

Effective Date: April 1, 2024

Overview

Changed policy to applicants are notified of their rights to claim 'good cause' from cooperating with child support with information provided through one of the Department's applications.

Added policy when an applicable household member adds a child to the case (such as a minor child who has a child (three generation case)), the individual must be provided the SFN 443. Record in narrative the name, address and date the SFN 443 was mailed. Return and signature of the SFN 443 is optional. If received, place in case file.

Description of Changes

1. 'Good Cause' for Refusing to Cooperate 400-19-70-30 – Change

Changed policy to applicants are notified of their rights to claim 'good cause' from cooperating with Child Support with information provided through one of the Department's TANF applications.

Added policy to other applicable household members who add a child into an open case must be notified by providing the individual with a copy of the SFN 443, Notice of Right to Claim 'Good Cause'. Record in narrative the name, address and date the SFN 443 was mailed. Return and signature of the SFN 443 is optional. If received, place in case file.

2. Budgeting of Newborn 400-19-105-40-20 – Change

Added policy SFN 443, Notice of Right to Claim 'Good Cause' is required to be provided to the custodian of the newborn when a custodian included in the open case adds a child into the case (such as a minor child who has a child (three generation case)) and the custodian has not already been provided an SFN 443, Notice of Right to Claim 'Good Cause'. Record in narrative the name, address and date the SFN 443 was mailed. Return and signature of the SFN 443 is optional. If received, place in case file.

3. Forms and Documents 400-19-165 – Change, Title Change

This section was previously titled 'Appendix 400-19-165'. This section is being repurposed to contain a listing of SFNs, DN's, and other pertinent documents that relate to TANF. All policy sections, 400-19-165-05 through 400-19-165-180, are

being repealed and the information from those sections is being added to the tables in the repurposed and renamed section 'Forms and Documents 400-19-165'.

Additionally, policy on SFN 443, Notice of Right to Claim 'Good Cause' is being updated to remove that SFN 443 must be given to all TANF custodians as part of the application process.

Added policy that the SFN 443 must be provided to TANF custodians included in the open case who add a child into the case who previously did not receive the SFN 443. Record in narrative the name, address and date the SFN 443 was mailed. Return and signature of the SFN 443 is optional. If received, place in case file.

Policy Section Updates

1. **Good Cause' for Refusing to Cooperate 400-19-70-30**

A custodian may have 'good cause' for not cooperating with the Child Support Division. Accordingly, all custodians must be given the opportunity to claim a 'good cause' exemption.

Applicants are notified of their rights to claim 'good cause' through one of the Department's TANF applications.

Any other applicable household member (such as a minor child who has a child (three generation case)) in an ongoing case who becomes subject to the cooperation requirements **must be notified** of their rights to claim 'good cause' by providing the individual(s) with a copy of the SFN 443, Notice of Right to Claim 'Good Cause'.

Record in narrative the name, address and date the SFN 443 was mailed. **Return and signature of the SFN 443 is optional. If received, place in case file.** This is accomplished by providing each custodian with form SFN 443, Notice of Right to Claim 'Good Cause':

- ~~at the time of application or;~~
- ~~when a custodian included in the open case adds a child into the case and the custodian has not already signed an SFN 443.~~

The notice:

1. Briefly summarizes the legislative intent of the Child Support Division program;
2. Defines the custodian's responsibility to cooperate in the support enforcement effort; and
3. Provides a detailed explanation of the procedure for claiming 'good cause'.

~~The custodian shall be given sufficient time to read the notice(s) and raise questions before signing.~~ Any custodian wishing to claim a 'good cause' exemption shall indicate in writing by completing SFN 446, Request to Claim 'Good Cause'.

If, at the time of application or when a custodian's child is added, the custodian claims 'good cause', the custodian's financial needs must be included in the TANF benefit pending the determination of 'good cause'. If 'good cause' is not established, the custodian's financial needs remain in the TANF benefit, a referral is sent to the Child Support Division, and the custodian is required to cooperate.

If a determination of 'good cause' for non-cooperation with the Child Support Division is pending or has been granted, the Child Support Up-front Eligibility requirement does not apply. The eligibility worker should request the family to complete the forms but cannot deny the application if the forms are not completed and returned. If the forms are completed and returned, they must be sent to the Child Support Division.

EVIDENCE NEEDED TO ESTABLISH 'GOOD CAUSE' - There must be evidence to substantiate a claim of 'good cause'. Exemptions on the basis of physical or emotional harm, either to the child or to the custodian which, in turn, could be expected to reduce the custodian's capacity to care for the child, are allowed only for circumstances of a genuine and serious nature. Mere belief that cooperation might result in harm is not a sufficient basis for a finding of 'good cause'. Evidence upon which the Human Service Zone staff bases a finding of 'good cause' must be supported by written statements and contained in the case record.

It is the custodian's responsibility to provide the eligibility worker with the evidence needed to establish 'good cause'. The custodian must be given a minimum of 20 days from the date of their claim to collect the evidence. In exceptional cases the eligibility worker may grant additional time when obtaining the evidence proves difficult.

Records of law enforcement, social service, or adoption agencies may be readily available to document instances of rape, physical harm, or pending adoption and are deemed sufficient to substantiate the claim of 'good cause'. However, in situations other than adoption, additional evidence may be required.

Documentation of anticipated emotional harm to the child or custodian may be somewhat more elusive. Whenever the claim is based in whole or in part on anticipated emotional harm, the Human Service Zone staff shall consider the following:

1. The present emotional state of the individual subject to emotional harm;
2. The emotional health history of the individual subject to emotional harm;
3. The intensity and probable duration of the emotional harm;
4. The degree of cooperation to be required;
5. The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

ELIGIBILITY WORKER ROLE IN OBTAINING EVIDENCE – While the obligation to produce evidence necessary to support a ‘good cause’ claim remains the custodian's basic responsibility, the custodian may request the eligibility worker to assist in obtaining evidence. The eligibility worker must actively assist in obtaining evidence when the individual is not reasonably able to do so and promptly notify the custodian if additional evidence or documentation is necessary. The custodian may be able to provide specifics as to the type of document or record that they believe may be available to support the claim and its source.

The eligibility worker is obligated to assume direct responsibility for investigating a ‘good cause’ claim when the custodian's claim is believed to be authentic even though confirming evidence may not be available. This need may occur when the claim is based on a fear of serious physical harm and the claim is believed by the eligibility worker. Such investigation will be conducted without requiring corroborative evidence by the custodian and may involve a careful review of the case record, evaluation of the credibility of the custodian's statements, and/or a confidential interview with an observer who has good reasons for not giving a written statement. Based on such an investigation and professional judgment, the eligibility worker may find that good cause exists without the availability of absolute corroborative - evidence.

During the investigation of a ‘good cause’ claim, care must be taken to ensure that the location of the custodian and child(ren) are not revealed.

GOOD CAUSE CLAIMS TO BE PROCESSED PROMPTLY - Except for extenuating circumstances, the determination of whether ‘good cause’ exists must be made with the same degree of promptness as is the determination of other factors of eligibility (within 30 days). While the ‘good cause’ claim is pending, the eligibility worker may not deny, delay, or discontinue assistance. Prior to making a final determination, Human Service Zone staff are required to provide Child Support Division staff the opportunity to review and comment on the findings and basis for the proposed decision. However, the final determination rests with Human Service Zone staff.

Determinations concerning claims of good cause require the use of the decision-making principles found in N.D.A.C. § 75-02-01.2-12. These principles must be applied to the individual's statements and information to determine if the requirements of good cause are met. (To review the Good Cause Decision-Making Principles see Section 400-19-05, Definitions.)

CHILD SUPPORT DIVISION STAFF TO BE INFORMED OF ‘GOOD CAUSE’ STATUS - It is essential that the eligibility worker keep the Child Support Division staff informed on the status of all ‘good cause’ claims. This includes:

1. Promptly notifying the Child Support Division of all custodians who claim 'good cause' and requesting suspension of child support activity pending a determination;
2. Promptly reporting to the Child Support Division all cases in which a 'good cause' determination has been made for refusal to cooperate. Once 'good cause' is determined, no child support activity may be pursued unless at a future time it is determined that 'good cause' no longer exists; and
3. Promptly notifying the Child Support Division of all cases in which it has been determined that 'good cause' for refusing to cooperate does not exist and that child support activity can begin or resume.

CLAIMANTS OF 'GOOD CAUSE' TO BE INFORMED OF DECISION - The custodian must be advised, in writing, of the Human Service Zone staff's final decision that 'good cause' does or does not exist and the basis for the findings. If 'good cause' was determined not to exist, the communication must remind the custodian of the obligation to cooperate with the Child Support Division's efforts. The communication must also advise the custodian of their right to appeal the decision. In the event the custodian does appeal, the Child Support Division shall be advised to delay its activity until the results of the appeal are known. The written communication to the custodian whose claim to an exemption has been denied should also include a statement of the right to withdraw the application or have the case closed.

PERIODIC REVIEW OF 'GOOD CAUSE' CLAIMS - Cases in which 'good cause' was previously found to exist must be reviewed at a minimum of every 12 months. Rather than routinely conducting full scale re-reviews on every case, however, a complete follow-up needs to be done on only those claims in which the original finding of 'good cause' was based on a circumstance that is subject to change. If good cause is found to continue to exist, the claimant must be informed of the decision in writing.

If it is found that circumstances have changed so that 'good cause' no longer exists, the custodian must be advised of the decision, in writing, and afforded the opportunity to cooperate, withdraw from the program, or appeal the decision. Child Support Division must be informed if:

1. The custodian agrees to cooperate so child support activity can begin;
2. The custodian withdraws from the program which will result in the TANF referral closing; or

3. The custodian appeals the decision which will result in the Child Support Division's delaying its activity until the results of the appeal are known.

If, in an ongoing case, the custodian claims 'good cause' and a sanction has not been imposed, the custodian's needs must be included in the TANF benefit pending the determination of 'good cause'.

- If 'good cause' is established, the Child Support Division is informed of the determination, the custodian is not required to cooperate and their financial needs continue to be included in the TANF benefit.
- If 'good cause' is not established, the custodian is required to cooperate and their financial needs continue to be included in the TANF benefit.
- If the Child Support Division sends notification of non-cooperation and 'good cause' is approved, the sanction is not imposed and the custodian's financial needs continue to be included in the TANF benefit.
- If the Child Support Division sends notification of non-cooperation and 'good cause' is denied, the sanction must be imposed effective the first day of the future benefit unless the sanction is received on or after the third to the last working day of the month, then the sanction is imposed the first day of the future month.

2. Budgeting of Newborn 400-19-105-40-20

The needs of a newborn will be added to the household as of the date of birth if:

1. A written request is received within 10 days of the birth, and
2. The SSN or application for SSN, verification of birth/relationship, and identity are received within 30 days of the written request.
3. In addition, the signed SFN 443, Notice Of 'Right to Claim 'Good Cause' is required to be provided to the custodian of the newborn-when the a custodian included in the open case adds a child into the case (such as a minor child who has a child (three generation case)) and the custodian has not already been provided signed an SFN 443, Notice of Right to Claim 'Good Cause'.

Record in narrative the name, address and date the SFN 443 was mailed. Return and signature of the SFN 443 is optional. If received, place in case file.

A written request is defined as:

- A signed statement from the recipient; or

- The receipt of any of the required verifications provided by the TANF filing unit; or
- Listing the individual on the Monthly report, filed timely.

When a newborn is reported on the monthly report **and** the birth is reported timely (within 10 days of the date of birth), consider the written request to have been made on the first day of the month in which the monthly report was received, provided the monthly report was received by the normal deadline of the 5th day of the month (or the first work day after the 5th day of the month if the 5th day falls on a weekend or holiday).

Note: The newborn will be added effective the date of birth if the requirement verifications are received within 30 days from the date of the written request.

Example #1: A baby was born on June 21st. The household reports the birth on the Monthly report received by July 5th and include all required verification. The baby is added as of the date of birth because the written request was deemed to be received within 10 days since the information was included on the timely monthly report. A supplemental benefit is issued to the household for June and July to meet the financial needs of the baby.

Note: The date entered in the 'Date Reported' field in the automated computer system is July 1.

When a newborn is reported on other than a monthly report and the birth is reported timely (by a written request that is received within 10 days of the birth), the newborn will be added effective the date of birth, if the required verifications are received within 30 days from the date of the written request.

Example #1: A baby was born on June 15th. The household provides a written request to add the baby on June 20th. The required verifications are provided on June 30th; the baby is added as of the date of birth June 15th, because the written request was received within 10 days, and verifications provided within 30 days. A supplemental benefit is issued to the household for June and July to meet the financial needs of the baby.

Note: The date entered in the 'Date Reported' field in the automated computer system is June 20th.

Example #2: A baby was born on June 15th. The household provides a written request to add the baby on June 20th. The required verifications are not provided until July 24th. Since the verifications were not provided within

30 days from the written request, the baby is added effective July 24th and the benefit for the entire household will be prorated from July 24th.

Note: The date entered in the 'Date Reported' field in the automated computer system is July 24th.

If the newborn is not reported timely (within 10 days from the date of birth), the newborn will be added effective the date of the written request if the required verifications are received within 30 days from the written request.

If the newborn is not reported timely (within 10 days from the date of birth), and is reported the month following the month of birth, the entire case will be prorated from the date of the written request, provided all verifications are received within 30 days from the date of the written request.

Note: When a Monthly Report, received timely (by the 5th date of the month), reports the birth of a child, but the birth occurred more than 10 days prior to the 1st day of the month in which the timely report is received, consider the written request to have been made on the date the monthly report is received.

Example #1: A baby was born on June 15th. The household reports the birth on the Monthly Report received by July 5th and includes all required verifications.

- The baby is not eligible to received TANF for June as the birth was not reported timely.
- The baby is added effective July 5th because the birth was not reported timely and both mom and the baby's needs are prorated from July 5th.

Note: The date entered in the 'Date Reported' field in the automated computer system is July 5th.

Example #2: A baby is born on February 25th. The household submits a written statement reporting the birth on March 10th and all verifications are received within the 30 days. Benefits for the month of March are prorated from March 10th, the date of the written request.

- The baby is not eligible to receive TANF for February as the birth was not reported timely.

- The baby is added effective March 10th because the birth was not reported timely and both mom and the baby's needs are prorated from March 10th.

Note: The date entered in the 'Date Reported' field in the automated computer system is March 10th.

If the newborn is not reported until after the month following the month of birth, the entire month following the month of birth is an overpayment.

Example: A baby is born on February 25th, and the birth is not reported until April 5th and all verifications are received within the 30 days from the date of the written request.

- A supplement for the newborn is not issued for February, nor is February an overpayment.
- The benefits for the month of March are an entire overpayment for the household because the newborn is a mandatory household member.
- The entire case will be prorated from the date of the written request, April 5th.

Note: The date entered in the 'Date Reported' field in the automated computer system is April 5th.

Required verifications must be received before adding the newborn. The 'Date Reported' that is entered into the automated computer system is the date the written request is received provided the required verifications are received within 30 days.

Exception: Whether or not the baby is reported timely, if the required verifications are not received within 30 days from the date of the written request, the 'Date Reported' must be updated to equal the date the verifications are received.

Upon receipt of a report of the birth of a baby, if the required verifications have not been received, immediately issue an advance (10-day) notice to the household to close the case since the newborn is a mandatory household member.

- If the required verifications are not received by the end of the report month, the case will close.
 - If the case closed and the required verifications are received within 30 days from the report date, the case must be reverted to open and continued eligibility determined.

If the birth of the baby is not reported within 10 days following the expected date of birth of the unborn, an advance (10-day) notice must be sent to the household to close the case since the newborn is a mandatory household member.

3. SFN 443, Notice of Right to Claim 'Good Cause' 400-19-165-75

SFN 443, "Notice of Right to Claim 'Good Cause,'" is used to inform TANF individuals ~~applicants~~ of their right under Section 208 of Public Law 94-88 to claim an exemption from the requirement to cooperate with the child support enforcement effort if they believe that by doing so they would be acting contrary to the best interests of their child(ren).

The form must be given to all TANF custodians ~~as part of the application process~~ or when a custodian included in the open case adds a child into the case (such as a minor child who has a child (three generation case))) and the custodian has not ~~already~~ previously been provided signed an SFN 443.

Record in narrative the name, address and date the SFN 443 was mailed. Return and signature of the SFN 443 is optional. If received, place in case file.

The notice briefly summarizes the legislative intent of child support enforcement and the applicant's obligation to cooperate in the support collection effort and describes the circumstances under which cooperation may be "against the best interests" of the child(ren) and provides examples of the kinds of evidence necessary to substantiate a claim of good cause.

~~The applicant should be allowed sufficient time to read the notice, ask questions, and sign and date the document.~~

~~The signed and dated original notice shall be filed in the applicant's case record as documentation that the notice was in fact received. The canary colored copy shall be given to the applicant.~~

This form is available through the Department of Human Services and may also be obtained electronically via E-Forms. (34kb pdf)

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