

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 400-19 – Temporary Assistance for Needy Families to incorporate the changes made with the following IM's:

- Amended IM 5232 - Three Affiliated Tribes People's Fund Distribution
- IM 5244 – 529 and 530 College Savings Plan
- Amended IM 5247 – TANF Standard of Need Increase
- IM 5250 Kinship Care Benefit Increase
- IM 5254 Definition of Spouse/Marriage

This manual letter includes the standardized EAP Intentional Program Violation policy. There are no changes in TANF policy as a result of the standardized EAP Intentional Program Violation policy.

**The following sections have been repealed:**

- 400-19-120-95 Endorsement in Event of Death/Absent of Payee
- 400-19-135-05 Overview
- 400-19-135-15 Fraud
- 400-19-135-20 Types of Intentional Program Violations
- 400-19-135-30 Initiating Administrative Disqualification Hearing Process
- 400-19-135-35 Appeals Supervisor Action
- 400-19-135-45 Disqualification Penalty

**The following sections have been renumbered:**

- 400-19-135 Intentional Program Violation (IPV) has been renumbered to 400-19-137
- 400-19-135-10 Intentional Program Violation has been renumbered to 400-19-137-05
- 400-19-135-25 Evidence Evaluation has been renumbered to 400-19-137-10

- 400-19-135-40 Disqualification Time Frames has been renumbered to 400-19-137-35
- 400-19-135-50 Disqualification in Another State has been renumbered to 400-19-137-50

**The following sections have been added:**

- 400-19-140-25 TANF Kinship Care Maintenance Payment
- 400-19-165-175 SFN 376, Drug-Related Felony/Fleeing Felon Review

Par. 2. **Effective Date** – Changes included in this manual letter are effective October 1, 2015, **unless otherwise indicated**. The standardized EAP Intentional Program Violation policy is effective October 1, 2015, unless otherwise indicated. Items that include a change in policy are indicated. All other items are clarifications or grammar corrections.

**Temporary Assistance for Needy Families (TANF) 400-19****Definitions 400-19-05**

- 400-19-05 - Definition of Eligible Caretaker Relative has been changed to reflect same sex marriages. This supersedes IM 5254 Definition of Spouse/Marriage which was effective July 20, 2015.

**Definitions 400-19-05**

**Eligible Caretaker Relative** – An eligible caretaker relative who is in financial need and:

1. Is related to a dependent child within the 5th degree of relationship whether by birth, marriage, or adoption; or

**Note:** If related to a dependent child within the 5th degree who is not their own child, the eligible caretaker relative cannot be under the age of 16 years.

2. Is not a recipient of SSI benefits; or
3. Is a pregnant woman in the third trimester of her pregnancy; or
4. Is a pregnant woman who is in the third trimester of her pregnancy with no other dependent child and is herself incapacitated or whose husband spouse is incapacitated.

**Note:** A caretaker relative who is related to a dependent child within the 5th degree but who is not the natural or adoptive parent of the child, is eligible only if the caretaker relative:

1. Is age 16 or older; and
2. If married, whose spouse is absent from the home other than on a temporary basis.

## **Application/Request for Benefits 400-19-20**

### **Overview 400-19-20-05**

- The 'note' in this section has been removed and aligned as it is current TANF policy.
- Information previously in Application Process, 400-19-20-15, has been moved into this section.

### **Overview 400-19-20-05**

An application is a formal request for benefits that is made on one of the prescribed TANF Program application forms. Individuals requesting benefits through the TANF Program must complete and sign an application. The application must be submitted to the local county social service agency for processing. An unsigned application is not considered an application.

**Note:** ~~Prior to determining eligibility and authorizing benefits, the TANF Eligibility Worker must have a completed and signed application. The application is considered signed if the signature is found anywhere on the application, other than to answer a question.~~

Prior to determining eligibility and authorizing benefits, the TANF Eligibility Worker must have a completed and signed application. The application is considered signed if the signature is found anywhere on the application, other than to answer a question.

The application process may include the following steps:

- An individual contacts the county agency.
- County agency staff advises the individual of the right to file an application, explain how and where to apply, and, if necessary, assist the individual with completing the application.
- County agency staff shall provide information on the types of assistance and other community resources available.
- An applicant files an application for assistance.

- The TANF Eligibility Worker conducts a face-to-face interview.  
**Exception:** If there is not a break in assistance of one full calendar month, the face-to-face interview is optional.
- The applicant provides verifications.
- The TANF Eligibility Worker determines eligibility and the date eligibility begins.
- The TANF Eligibility Worker notifies the applicant of eligibility or ineligibility.

### **Application Forms for TANF 400-19-20-10**

- Information after the first paragraph has been moved to section 400-19-20-15 Application Process.

### **Application Forms for TANF 400-19-20-10**

The allowable application forms used to apply for benefits under the TANF Program are:

1. SFN 405, "Application for Economic Assistance Programs";
2. SFN 719, "TANF Request for Benefits"; and
3. The Electronic Application found on the Department of Human Service Website.

~~Upon receipt of an application, the TANF Eligibility Worker must:~~

1. ~~Determine if it is complete and signed, and a face to face interview must be conducted.~~
  - ~~If any one of the above signed applications is incomplete, the household must either complete the application or sign a Statement of Facts (or Monthly Report as defined below).~~  
**Note:** If the application submitted is the SFN 719, "Request for Benefits", a Statement of Facts (or Monthly Report as defined below) is required.
  - ~~If any one of the above signed applications does not list an address, TANF Eligibility Workers should review the contact information found on a mailing envelope, in a phone book, on a Motor Vehicle query, or using any other available resources for address information.~~

2. The application must be registered in the automated computer system as soon as possible upon receipt, but no later than the fifth working day following receipt. If no mailing/residence address can be located, 'General Delivery' must be used as the mailing address for all notice(s). If the notices are returned for insufficient address:
  - If the application has not been approved, it should be denied due to loss of contact and documented in the casefile.
  - If the application has been approved, the case can be closed for loss of contact and documented in the casefile.

### **Application Process 400-19-20-15**

- All information previously in this section has been moved to Overview 400-19-20-05 or Application/Request for Benefits 400-19-20.
- Information which was previously in Application Forms for TANF, 400-19-20-10, has been moved into this section.

### **Application Process 400-19-20-15**

Upon receipt of an application (regardless which application form is used), the TANF Eligibility Worker must:

1. Determine if the application is complete and signed:
  - If a signed application is incomplete, the household must either complete the application or sign a completed Statement of Facts or Monthly Report whichever is applicable.  
**Exception:** If the application submitted is the SFN 719, "Request for Benefits", a Statement of Facts or Monthly Report whichever is applicable is required.
  - See TANF policy at Required Applications in Various Circumstances 400-19-20-20 to determine when an application, Statement of Facts or Monthly Report can be used.
2. If the application does not list an address, the TANF Eligibility Worker should review the contact information found on a mailing envelope, in a phone book, on a Motor Vehicle query or using any other available resources for address information.
3. Schedule a face-to-face interview.

**Exception:** If there is not a break in assistance of one full calendar month, the face-to-face interview is optional.

- 4 The application must be registered in the automated computer system as soon as possible upon receipt, but no later than the fifth working day following receipt. If no mailing/residence address can be located, 'General Delivery' must be used as the mailing address for all notice(s). If the notices are returned for insufficient address:
  - If the application has not been approved, the application should be denied due to loss of contact and documented in the casefile.
  - If the application has been approved, the case can be closed for loss of contact and documented in the casefile.

The application process may include the following steps:

- An individual contacts the county agency.
- County agency staff advise the individual of the right to file an application, explain how and where to apply, and, if necessary, assist the individual with completing the application.
- County agency staff shall provide information on the types of assistance and other community resources available.
- An applicant files an application for assistance.
- The TANF Eligibility Worker conducts a face to face interview.

**Note:** If there is not a break in assistance of one full calendar month, the face to face interview is optional.

- The applicant provides verifications.
- The TANF Eligibility Worker determines eligibility and the date eligibility begins.
- The TANF Eligibility Worker notifies the applicant of eligibility or ineligibility.

**Marriage Validity Policy for TANF 400-19-45-05-10**

- This section has been changed to reflect IM 5254 – Definition of Spouse/Marriage which was effective 07-20-2015.

**Marriage Validity Policy for TANF 400-19-45-05-10**

A spouse is a person who is legally married to another person.

In order for a marriage performed in North Dakota to be ~~recognized or~~ considered valid in North Dakota, couples are required to obtain a marriage license through the County Recorder's Office. ~~North Dakota law specifically states that marriages are considered recognized and valid if they are between one man and one woman as husband and wife. Therefore, North Dakota does not recognize same sex marriages regardless of where the marriage occurred.~~

Marriages that occur outside of North Dakota are considered valid in North Dakota if:

1. The marriage was legally performed in another state;
2. The marriage is a common law marriage that occurred in another state and was considered a valid marriage in that state (the couple would be required to provide documentation verifying that the common-law marriage was considered valid by the state in which it took place);
3. The marriage occurred in another country and the marriage was considered valid according to the law of the country where the marriage was contracted, unless the marriage violates the strong public policy of North Dakota.
4. Polygamous marriages violate the strong public policy of North Dakota. In situations where polygamy has occurred, the first marriage is considered valid in North Dakota if the marriage meets the criteria in #1, 2 or 3 above. Any additional spouse(s) claimed after the first marriage, are considered non-relatives.

**Deprivation Reasons 400-19-45-70-10**

- 400-19-45-70-10 – In number 2, 'husband' and 'wife' have been replaced with 'spouse' to reflect same sex marriages. This supersedes

IM 5254 Definition of Spouse/Marriage which was effective July 20, 2015.

### **Deprivation Reasons 400-19-45-70-10**

North Dakota law defines deprivation of parental support or care in terms of the following conditions:

1. Death of a Parent -- If either parent is deceased, the child is considered deprived;
2. Continued Absence of a Parent -- The continued absence of either parent from the home constitutes deprivation when all of the following factors are present:
  - a. The parent is physically absent from the home; and
  - b. The nature of the absence is such as to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child; and
  - c. The known or indefinite duration of the absence prevents relying on the parent to perform their function in planning for the present support or care of the child.

If all three of these conditions are met, the parent may be absent for any reason and the parent may have left only recently or sometime previously. Types of parental absence include:

- a. DIVORCE - The legal termination of a marriage. Continued absence of a parent may be established as the result of divorce.
- b. LEGAL SEPARATION - A lawful arrangement by which a husband and wife spouses agree to live apart but not divorce. Continued absence of a parent as a result of this arrangement can be established if there was no agreement between the parents to render the family eligible for TANF.
- c. SEPARATION BY MUTUAL CONSENT OR AGREEMENT - The discontinuance of the marital relationship without legal action. Continued absence of a parent as a result of this arrangement can be established if there was no agreement between the parents to render the family eligible for TANF.
- d. IMPRISONMENT - The incarceration of a parent in a public institution. Continued absence exists only if the parent is

sentenced to and/or serves a 30-day or longer term. Any portion of a sentence actually suspended and not served does not count toward the 30-day minimum.

**Note:** Once a benefit has been issued, deprivation exists for that month even if:

- i. The term served is shortened by order of the court; or
- ii. The term actually served is less than the sentence imposed.

If an offender is on day release and does not return home until at least 30 days has elapsed, the parent is considered absent from the household and deprivation exists.

- e. ABANDONMENT- The voluntary and willful desertion by a parent without making adequate provision for the child's care and support. Continued absence of a parent may be established when a child is abandoned.
- f. NEVER MARRIED - The parents having never married and who live apart. Continued absence of a parent may be established as a result of the parents never being married to each other.

A parent's contact with their child(ren) need not totally stop in order for continued absence to exist. It is recognized that the absent parent may be an important influence in the life of the child(ren) and contact between the absent parent and child(ren) is consistent with their role of helping to maintain and strengthen family life, as specified in the Act. Therefore, a continuing relationship between an absent parent and child(ren) cannot be a basis, by itself, for a finding that continued absence does not exist.

Occasionally, staff must deal with the complex question of whether or not a parent is actually absent from the home. Complaints from the community sometimes reach the TANF Eligibility Worker claiming that parents who have divorced or separated, or who are alleged to have deserted their families are, in fact, maintaining common living quarters. While these complaints sometimes prove to be valid, staff must guard against the temptation to deny applications or terminate assistance on the basis of hearsay and rumor. The "prudent

person" principle requires that all such reports be investigated promptly and objectively. If a thorough investigation reveals that the claim is true, the continued absence requirement is not met.

A child placed in the home of a relative in North Dakota by a court or through a voluntary family arrangement may be eligible for TANF in North Dakota, provided all factors of eligibility are met.

3. Aged Parent –Deprivation exists for purposes of TANF when a household contains two natural or adoptive parents and at least one attains age 65.
4. Disabled Parent –Deprivation exists for purposes of TANF when a household contains two natural or adoptive parents and the Social Security Administration determines that one parent meets the disability criteria to be eligible for either Supplemental Security Income (SSI) or Social Security Disability (SSDS) benefits. Eligibility for SSI or SSDS constitutes adequate substantiation of disability for purposes of TANF without submitting SFN 451, Eligibility Report on Disability/Incapacity. In addition, individuals approved under the Workers with Disabilities Program are considered disabled under TANF.

Disability of a parent is used to determine eligibility for a two-parent family with a child(ren) in common. The parent whose disability results in the deprivation of a child's support or care may be either parent. In any disability case, the financial needs of both parents may be included in the TANF benefit even if the parents are not married or, if married, the wife is pregnant and in her third trimester. However, the parents must reside together.

The Social Security Administration may review the individual's SSI or SSDS case to determine if disability continues. If the Social Security Administration determines that the individual's disability has ceased, the TANF Eligibility Worker must send the recipient an advance (10-day) notice to close the case.

**Note #1:** Since TANF incapacity criteria is less restrictive than Social Security disability criteria, the TANF Eligibility Worker may complete and send SFN 451 along with current medical information to the State Review Team.

**Note #2:** If an individual's SSI non-pay status remains 'N01' or 'N04' for one year or longer, the TANF Eligibility Worker must complete and send SFN 451 along with current medical information to the State Review Team.

5. Incapacitated Parent -- Deprivation exists for purposes of TANF when a household contains both natural or adoptive parents with a child(ren) in common, when one of the natural or adoptive parents is determined incapacitated by the State Review Team. The parent whose incapacity results in the deprivation of a child's support or care may be either parent. In an incapacity case, the financial needs of both parents must be included in the TANF benefit even if the parents are not married or, if married, the wife is pregnant and in her third trimester. However, the parents must reside together. The natural or adoptive parent must have a physical or mental condition, supported by current, competent, medical testimony, of such a debilitating nature as to reduce substantially or eliminate the parent's capacity either to earn a livelihood or to discharge the parent's responsibilities as a homemaker and provider of child care for a period of thirty (30) days or more. It does not matter whether a parent was employed or fulfilled the role of homemaker prior to the onset of the claimed incapacity. Incapacity is established either when the person is unable to earn a livelihood or to act as a homemaker. In making a determination of incapacity to earn a livelihood, the department shall take into account the limited employment opportunities of disabled persons.

**Note #1:** Incapacities of short duration (less than 30 days) do not establish eligibility for TANF.

**Note #2:** If the incapacity is expected to last for a period of 6 months or longer, appropriate referrals for either or both parents must be made to:

- Vocational Rehabilitation Services for rehabilitation services;
- Job Service of North Dakota for possible training;

- Social Security Administration to apply for disability benefits,
- Any other appropriate programs.

The TANF Eligibility Worker is responsible for determining all eligibility factors except for incapacity which is determined by the State Review Team. The State Review Team must rely on current written reports from medical personnel, TANF Eligibility Staff, counselors, etc., to make a decision on incapacity. Therefore, it is important that objective information be submitted. Medical/social information is reported on SFN 451. If incapacity is approved, deprivation exists.

A form letter is used by the State Review Team to report its findings concerning incapacity; the basis for the findings; whether or not a future review of the incapacity is needed; and if so, the date of such a review. A copy of the form letter is sent to the TANF Eligibility Worker and the household.

The TANF Eligibility Worker is responsible to notify the client, in writing, of:

- a. The State Review Team's decision and recommendations;
- b. Whether or not a future review of the incapacity or disability is needed and, if so;
- c. The date of such a review and information needed to complete that review.

For those required to participate in JOBS, the recommendations made by the State Review Team should be incorporated into the JOBS Employability Plan.

Incapacity is established when a parent enters the State Hospital and is expected to remain for a period of 30 days or longer. The incapacity is established for the period of hospitalization without completing SFN 451, Eligibility Report on Disability/Incapacity. The TANF Eligibility Worker needs only to provide the State Review Team with verification that the individual has entered the State Hospital, the date of entry, date of discharge (if known), and the condition being treated. The State Review Team can then make the incapacity decision. If TANF eligibility is to continue upon the parent's return home, continued incapacity must be established by appropriate reports.

A parent receiving treatment in any facility other than the State Hospital must have their incapacity established by the State Review Team before TANF can be authorized. The benefit received in the month of the parent's return to the household will be the final benefit unless continued incapacity is established by the State Review Team.

If during a period of incapacity the TANF Eligibility Worker becomes aware that the individual's incapacity may no longer significantly interfere with the parent's ability to earn a livelihood or to perform homemaker and/or child care responsibilities, the TANF Eligibility Worker shall issue notification to end eligibility based on incapacity.

If incapacity is denied, deprivation does not exist. The TANF Eligibility Worker is responsible to notify the client, in writing, of the decision and its effect on the TANF benefit.

**Disqualification for Fleeing Felons, Probation/Parole Violators, Convicted Drug Felons and Misrepresentation of Residence 400-19-45-95**

**Fleeing Felons and Probation/Parole Violators 400-19-45-95-05**

- Added procedure to submit documents for fleeing felon, parole or probation violator to the Economic Assistance Policy Division to determine if the individual is disqualified.

**Fleeing Felons and Probation/Parole Violators 400-19-45-95-05**

A fleeing felon is an individual charged or convicted of any felony who has left the jurisdiction of the charging authorities. An individual charged or convicted of any felony in North Dakota who moves within the State of North Dakota is not a fleeing felon.

**Exception:** A Native American individual charged or convicted of any felony that flees to or from an Indian Reservation within North Dakota is considered a fleeing felon.

A probation or parole violator is an individual determined by the court to have violated the terms of their parole or probation from a felony conviction.

If an individual indicates on the application, TANF Monthly Report form, annual review form, or reports that they are a fleeing felon, parole or probation violator, the worker must obtain information to substantiate the

report. Any information received along with a completed SFN 376, Drug-Related Felony/Fleeing Felon Review must be forwarded to the Economic Assistance Policy Division. The Economic Assistance Policy Division will review the information to determine if the violation disqualifies the individual from TANF and notify the Eligibility Worker.

An individual is disqualified from receiving TANF if the individual is a Fleeing Felon or Parole or Probation Violator. Fleeing felons (charged with or convicted of any felony) and parole or probation violators are ineligible to participate in the program.

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). Disqualified individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). Individuals participating in the JOBS program are eligible for Supportive Services.

### **Exempt Assets 400-19-55-05-30**

- 529 and 530 College Savings Plan added as exempt assets. This supersedes IM 5244 529 and 530 College Savings Plan, which was effective April 20, 2015.

### **Exempt Assets 400-19-55-05-30**

The following assets are exempt when determining asset eligibility for TANF households:

1. **Agent Orange Settlement Program** -- Pursuant to Public Law 101-201, Agent Orange settlement payments are exempt.
2. **Basic Maintenance Items** – Basic maintenance items such as clothing, furniture, appliances, and personal effects.
3. **Burial Plots** -- A burial plot for each family member.
4. **Burial Prepayments or Deposits** --Any prepayments or deposits which total \$3000 or less, which are designated and maintained by an applicant or recipient for their burial.
5. **Children of Female Vietnam Veterans with Birth Defects Allowances** -- These allowances, paid under Public Law 106-419 are

exempt in determining eligibility and level of benefits under any federal or federally assisted program covering children with certain covered birth defects. This statute provides for monthly allowances, based on the degree of disability suffered by the child. The amounts range from \$100 to \$1272 monthly.

6. **Children of Vietnam Veterans Born with Spina Bifida Payments**  
-- Payments made pursuant to Public Law 104-204 to children of Vietnam veterans who are born with spina bifida shall be exempt in determining TANF eligibility.
7. **Crime Victim Compensation** -- Crime victim compensation is exempt.
8. **Earned Income Tax Credit** -- Federal Earned Income Tax Credit (EITC) refunds are exempt in the month of receipt and month following receipt.

**Note:** These funds become a countable asset beginning the second month following the month of receipt.

9. **Economic Stimulus Tax Rebates** -- Economic Stimulus Tax Rebates are exempt assets in the month of receipt and the following two months.

**Note:** These funds become a countable asset beginning the third month following the month of receipt.

10. **Educational Loans, Grants, Scholarships and Stipends** --  
Student assistance programs, for both undergraduate and graduate students, are exempt.

**Note:** Any stipend received while attending training that is specifically identified to cover the cost of daily living expenses must be counted as unearned income, as it is intended to cover the same basic needs as those provided under TANF.

11. **Home**-- The house or mobile home which is the usual residence of the TANF household. A home is defined as including the land on which it is located provided the acreage does not exceed 20 contiguous acres, if rural, or two (2) contiguous acres, if located in town.

Temporary absences for reasons of medical necessity, educational plans, or other good cause, usually approved in advance, do not constitute loss of the exemption if the intent is to return to the home.

12. **Income Tax Refunds** -- Federal or state income tax refunds are exempt for a period of 12 months from the month of their receipt.
13. **Indian Per Capita and Judgment Funds** – Indian per capita funds and judgment funds awarded by either the Indian Claims Commission or the Court of Claims after October 19, 1973, while held in trust, are exempt assets. This includes interest and investment income accrued on such funds.

**Note:** The funds must be identifiable and distinguishable from other funds. If commingled with any other countable assets, these funds become a countable asset beginning the second month following the month commingled.

Purchases made using per capita or judgment funds and the interest or investment income accrued on such funds, while held in trust are exempt. However, once sold, the item purchased loses its exemption.

(Refer to Section 400-19-55-25, Disregard of Certain Income, for policy on the treatment of Indian Per Capita income.)

14. **Indian Trust or Restricted Land** - Indian Trust or restricted lands are exempt assets. The proceeds from the sale of these lands are also exempt provided the proceeds are held with the original trust. When paid out, the proceeds remain exempt as long as they are not commingled with other funds
15. **Individual Development Accounts (IDA)** – Funds received through a grant made available under Section 403 of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA – Public Law 104-193) to enable individuals to acquire a lasting asset after saving for an extended period of time. Currently, this grant is being administered by Community Action Programs.

16. **Individual Indian Monies Accounts** -- The value of all interests in Individual Indian Monies Accounts held in trust are exempt from the asset limit pursuant to the Indian Judgment Distribution Act of 1973. (Refer to Section 400-19-55-20-15, Countable Unearned Income Types, for policy on the treatment of income from Individual Indian Monies (IIM) accounts.)
17. **Loans**--A loan from any source with written documentation verification that is subject to repayment.
18. **Minor Parents' Parents Assets** – The assets of minor parents' parents shall be exempt in determining TANF eligibility.
19. **Radiation Exposure Compensation Act Settlement Payments** - Payment settlements as a result of the Radiation Exposure Compensation Act (P.L. 101-426) are exempt as long as settlement payments and accrued interest are kept separate and apart from countable assets. Commingling of funds renders the entire account countable as an asset.
20. **Real Property Listed for Sale** - If a TANF household owns real property and the household is making a good faith effort to sell the property, it shall be exempt from the asset limits.  
Steps that demonstrate a "good faith" effort to sell require listing with a real estate agency where such services are available. If such services are not available, the "good faith" effort to sell must be demonstrated by the posting of "For Sale" signs and classified advertisements in local newspapers. Newspaper advertisements must be purchased at least every six months and appear five consecutive days in a daily newspaper or two consecutive weeks in a weekly newspaper. TANF households are required to set a realistic asking price and to publish the asking price. The asking price must be based on market analysis by a realtor, appraisal, or any other method which produces an accurate reflection of fair market value. A "good faith" effort to sell requires the acceptance of any offer that meets or exceeds 75% of the published asking price. Failure to demonstrate a "good faith" effort to sell will result in the loss of the real property asset exemption.

21. **Rental and Utility Rebates and Deposit Refunds** - Rebates and deposits from rental and utility companies are exempt in the month of receipt and month following receipt.

**Note:** These funds become a countable asset beginning the second month following the month of receipt.

22. **Retirement Plans** – Funds held in employer-sponsored retirement plans are not countable while an individual is employed with the company holding the retirement plan. However, private retirement plans are countable.

23. **SSI Recipients Assets** - The equity value of all assets owned by any SSI recipient are exempt. Solely or jointly owned assets with an SSI recipient are considered exempt assets.

24. **Tribal High School Graduate/GED Payments** - Payments from Tribes within North Dakota to tribal members who graduate from high school or receive a GED are considered non-recurring lump sum. These payments are an exempt asset in the month following the month of receipt.

25. **Vehicles** - One vehicle limited to car, van, or pick-up normally used as a family vehicle of any equity value. The vehicle with the greatest equity value will be exempted.

26. **529 Qualified Tuition Program Plan** – Tax advantage program to help families save for future education expenses for a designated beneficiary. In North Dakota the program is administered through the Bank of North Dakota and is called College Save.

27. **530 Coverdell Education Savings Accounts** - Trusts created to pay the education expenses of the designated beneficiary.

#### **Disqualifying Transfers of Assets - 400-19-55-05-35**

- Added Kinship Care maintenance payment is considered in determining the disqualification period. This supersedes IM 5250 Kinship Care Benefit Increase, which was effective August 1, 2015.
- Changed TANF Standard of Need throughout this section to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase, which was effective July 1,

2015.

### **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 TANF Application are among the factors which must be evaluated. The 12-month period prior to the month in which a TANF Application is received 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, the TANF household will be ineligible from receiving TANF benefits for a period beginning with the month in which the transfer took place and continuing for a number of months equal to the result of dividing the known or estimated equity value of the asset transferred by the TANF **Basic Standard of Need (including the Kinship Care maintenance payment)** at the time of the transfer (without add-on's for special items of need). Any amount remaining will be counted as unearned income for the first potential month of eligibility after the disqualification period ends.

**Note:** Any period of ineligibility begins the first day of the month of transfer.

**Example:** If the equity value of the transferred asset for a TANF household was \$10,000 and the TANF Basic Standard of Need was \$523 \$533, the ineligibility period is 19-18 months plus \$63 \$406 remains to be counted as unearned income for the first potential month of eligibility after the disqualification period ends. (\$10,000 divided by \$523 \$533 = 19.12 18.76 months. 19 18 months times \$523 \$533 equals \$9,937 \$9594. \$10,000 minus \$9,937 \$9594 equals \$63 \$406).

If a TANF household member makes multiple transfers of assets, each asset transferred must have a disqualification period calculated, and ineligibility for each transfer begins the month in which the transfer took place.

**Note:** Multiple transfers made in the same month cannot be added together when determining the period of ineligibility.

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.

**Note:** However, 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, the period of ineligibility that was determined in the previous household does not remain in effect for the new TANF household. A new disqualification period must be calculated for the new household based on the remaining amount of the transferred asset and the TANF Basic Standard of Need of the new household.

**Example:** Continuing on with the Example above, If the individual moves to a new TANF household after 5 months of ineligibility, a revised period of ineligibility for the new TANF household is calculated as follows: ~~\$523 \$533~~ (Old TANF household Standard of Need) X 5 months = ~~\$2,615 \$2665~~. \$10,000 (original equity value of transferred asset) less ~~\$2,615 \$2665~~ = ~~\$7,385 \$7335~~. ~~\$7,385 \$7335~~ is the remaining amount of the transferred asset which must be divided by the TANF Basic Standard of Need of the new TANF household.

If the TANF Basic Standard of Need of the new TANF household is ~~\$328 \$335~~, the disqualification period is ~~22 21~~ months plus ~~\$169 \$300~~ remains to be counted as unearned income for the first potential month of eligibility after the disqualification period ends. (~~\$7,385 \$7335~~ divided by ~~\$328 \$335~~ = ~~22.51 21.89~~ months. ~~22 21~~ months times ~~\$328 \$335~~ equals ~~\$7,216 \$7035~~. ~~\$7,385 \$7335~~ minus ~~\$7,216 \$7035~~ equals ~~\$169 \$300~~).

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.

There is no recalculation of the disqualification period based on any changes in the TANF Basic Standard of Need (e.g. change in household size, mass change in the basic standard of need, etc.).

Any portion of the transferred asset that is returned must reduce the amount of the disqualifying transfer and reduce the period of ineligibility. However, the period of ineligibility will not end prior to the date of the return.

**Note:** Refer to the Special Processing section of the Vision User Manual for instructions on processing TANF Disqualifying Transfers. Contact State TANF Policy for assistance if:

- All or a portion of the asset transferred has been returned;
- The household member who made a disqualifying transfer moves to another TANF household; or
- The participation code for the household member who made a disqualifying transfer changes to 'OU' (other than due to Pay After Performance), 'SS" or 'MP'.

#### **Terminated Source of Income 400-19-55-10-10**

- **Changed TANF Standard of Need throughout this section to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase, which was effective July 1, 2015.**

#### **Terminated Source of Income 400-19-55-10-10**

For purposes of this section:

- **Source:** An entity from whom income, earned or unearned, is received.
- **Terminated:** Income, earned or unearned, that stops or ends and is not anticipated to begin again.

When the final payment of income is received during the 1st or 2nd prospective months, the income is considered a terminated source of

income. Income cannot be treated as a terminated source if it is received in the 1st retrospectively budgeted month.

**Example:** The 1st and 2nd prospective months are January and February and the 1st retrospectively budgeted month is March.

- If the income ends in January or February and none is received in the calendar month of March, the income is considered a terminated source of income.
- If the income continues to be received in the calendar month of March, it is not considered from a terminated source and January income would be counted when determining March benefits.

If income is not received in the 1st retrospectively budgeted month, but in a later month the individual receives income from the same source (e.g. rehired to same job, begins receiving the same type of unearned income, etc.), the income received during the 1st or 2nd prospective months continues to be considered terminated source income.

**Exception:** Income received by an individual who is on temporary leave and who expects to return to the same employment when the leave ends is not considered income from a terminated source.

Terminated Source of Income is not counted when retrospective budgeting.

Voluntary or Court Ordered Support payments for children and caretakers (in the case of spousal support) eligible for TANF are assigned to the State of North Dakota upon authorization of the initial month of TANF eligibility. Therefore, once assigned, any support retained by the household for an eligible child or caretaker is treated as a terminated source of income.

The following examples illustrate the treatment of terminated source income under two-month retrospective budgeting.

**Example # 1:** Applicant With Recurring Income Which Ends During First Prospective Month

Client applies in January and receives \$200 unearned income. The unearned income ends during January.

	Prospective		Retrospective		
	JAN	FEB	MARCH	APRIL	MAY
<u>Benefit Month</u>					
<u>Base Month</u>	JAN	FEB	JAN	FEB	MAR
Need Standard	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>
Net Income	-200	-0	-0*	-0	-0
TANF Benefit	323 <u>333</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>

\* The \$200 unearned income received in January is considered income from a terminated source, as it ends in the 1st prospective month. It is prospectively budgeted in January then corrected, if necessary, when actual are received. It is not counted again in the first retrospective benefit month (March).

**Example #2:** Applicant With Recurring Income Which Ends During Second Prospective Month

Individual applies in January and receives \$200 unearned income in February. The unearned income ends during February.

	Prospective ➔		Retrospective ➔		
Benefit Month	JAN	FEB	MARCH	APRIL	MAY
Base Month	JAN	FEB	JAN	FEB	MAR
Need Standard	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>
Net Income	-0	-200	-0	-0*	-0
TANF Benefit	523 <u>533</u>	323 <u>333</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>

\* The \$200 unearned income received in February is considered income from a terminated source as it ends in the 2nd prospective month. It is prospectively budgeted in February then corrected, if necessary, when actuals are received. It is not counted again in retrospective benefit month of April.

**Example #3:** Applicant With Recurring Income Which Ends During First Or Subsequent Retrospective Months

Individual applies in January and receives \$200 unearned income in January, February and March. The final payment from this unearned income source is received in March.

	Prospective ➔		Retrospective ➔			
Benefit Month	JAN	FEB	MARCH	APRIL	MAY	JUNE
Base Month	JAN	FEB	JAN	FEB	MARCH	APRIL
Need Standard	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>	523 <u>533</u>
Net Income	<u>-200</u>	<u>-200</u>	<u>-200*</u>	<u>-200</u>	<u>200**</u>	<u>-0</u>
TANF Benefit	323 <u>333</u>	323 <u>333</u>	323 <u>333</u>	323 <u>333</u>	323 <u>333</u>	523 <u>533</u>

\* The \$200 unearned income received in January and February is considered recurring income and NOT income from a terminated source. It must be budgeted in both the prospective benefit months (January and February) and the retrospective benefit months (March and April).

\*\* The \$200 unearned income received in March must be budgeted against the May benefit.

### **Recurring Lump-sum Payments 400-19-55-10-20-10**

- Added oil and gas revenue as an example of recurring lump sum payments. This incorporates Amended IM 5232 Three Affiliated Tribes People's Fund Distribution which was effective April 30, 2015.

### **Recurring Lump-sum Payments 400-19-55-10-20-10**

Unearned income received on a recurring or regular basis is considered recurring lump sum payments. This income is countable and must be

prorated over the period the payment is intended to cover.

Recurring lump sum payments received after application for TANF are prorated over the number of months the payment is intended to cover.

**Note:** The prorated lump sum payment must continue to be counted if the case closes and then reopens during the prorate period or within the following prorate period. This prevents cases from being closed temporarily to avoid using the lump sum income.

Examples of recurring lump sum payments include, but are not limited to:

- Land rental income;
- CRP;
- IIM monies;
- Mineral Royalty/Lease Income;  
- Oil and gas revenue

For treatment of Earned income lump sum payments, see Section 400-19-55-15-10, Earned Income - When Received.

### **Treatment of Self-Employment Income - 400-19-55-15-25-20**

- Cooperative distributions from the sale of goods have been added as a bullet in the second to the last paragraph as it can be earned or unearned income.

### **Treatment of Self-Employment Income - 400-19-55-15-25-20**

When an individual is actively engaged in a self-employment business, the income they receive is considered earned income. The following types of income are always considered earned income:

- Capital or Ordinary Gains/Losses
- Farm Income
- Business Income
- Partnership – Ordinary income, guaranteed payments to partners, depreciation and depletion

However, there are some types of income included on the self-employment income tax forms that are considered unearned income. The following types of income are considered unearned income:

- Royalty income

- Partnership – rental, interest and dividend income
- Income from S-Corporations
- Estate or trust income

The following types are considered earned or unearned depending on whether the individual is actively engaged in earning the income and the self-employment tax forms filed.

- Cooperative distributions from the sale of goods
- Farm rental income
- Other rental income

The earned income must be separated from the unearned income and will be when using the self-employment calculation worksheet.

### **Determining Self-Employment Income - 400-19-55-15-25-25**

- 'Disregarded' has been changed to 'excluded' in two different areas in this section.
- Wording 'on a separate line in the calculation' has been removed as it was incorrect when IM 5229 Cooperative Distributions (Patronage Dividends) was previously incorporated.

### **Determining Self-Employment Income - 400-19-55-15-25-25**

1. Capital or Ordinary Gains or Losses – A capital or ordinary gain or loss is the difference between the sale price and the cost basis. The cost basis may include improvements and sales expenses such as broker's fees and commissions.

Capital or ordinary gains or losses are considered part of the EARNED income from self-employment. The gain or loss is calculated by deducting the cost basis from the gross sale price. The result is then added to or subtracted from the calculation of the self-employment income for the business the property was used in.

**NOTE:** Use only the income or loss from the sale of capital items that can be reasonably anticipated to recur during the current year.

**This income is generally included on the Schedule D or Form 4797.**

2. Farm Income – Income earned through the operation of a farm or ranch including farm rental income and CRP.
  - a. Farm Rental Income – Income received by a landowner from the sale of crops or livestock produced by the tenant. This does not include cash rent of pasture or farmland.
  - b. Conservation Reserve Program Payments (CRP) – Cost share and payment program under the USDA that encourages farmers to convert highly erodible crop land or other environmentally sensitive acreage to vegetative cover.

Farm income, including farm rental income and CRP:

- Is considered **EARNED** income when the individual is actively engaged in farming. The total farm income or loss is determined by taking the taxable amount of cooperative distributions (patronage dividends) from the net farm income and adding in the depreciation.

The amount of cooperative distributions is deducted from farm income as it is ~~disregarded~~ **excluded** income.

Depreciation is added back in as this is not an allowable expense.

**NOTE:** Cooperative distributions (patronage dividends) may include income from the sale of goods (grain, milk, cattle, etc.). Any portion of cooperative distributions that is income from the sale of goods must not be deducted from farm income.

**This income is generally included on the Schedule F.**

- Is considered **UNEARNED** income as a result of self-employment when the individual is NOT actively engaged in farming. The total farm rental income or loss is determined by taking the taxable amount of cooperative distributions (patronage dividends) from the net farm rental income and adding in the depreciation.

The amount of cooperative distributions is deducted from farm rental income as it is ~~disregarded~~ **excluded** income ~~on a~~ ~~separate line in the calculation~~. Depreciation is added back in as this is not an allowable expense.

**NOTE:** Cooperative distributions (patronage dividends) may include income from the sale of goods (grain, milk, cattle, etc.). Any portion

of cooperative distributions that is income from the sale of goods must not be deducted from farm income.

**This income is generally included on the Form 4835.**

1. Business Income – Income earned through the operation of a business other than farming or ranching.

Business income is considered EARNED self-employment income.

Business income is determined by taking the net business income profit or loss and adding in the depletion or depreciation. Depreciation and depletion are added back in as they are not allowable expenses.

**This income is generally included on the Schedule C.**

4. Partnerships – A partnership is a self-employment business set up as a partnership with two or more partners. A partner's share of income, gain, loss, deductions or credits is determined by a partnership agreement.

- Ordinary income and guaranteed payments to partners in a partnership is considered EARNED self-employment income.

**This income is generally included on the Schedule K-1 (Form 1065).** The partner's share of the partnership income is determined by adding the partner's share of depreciation or depletion to their ordinary income and guaranteed payments. Depreciation and depletion are added back in as they are not allowable expenses. **The depreciation and depletion are generally included on the Form 1065.**

- Rental, interest and dividend income paid to partners in a partnership is considered UNEARNED income as a result of self-employment. The partner's share of the partnership income is the total of the rental, interest and dividend income. **This income is generally included on Schedule K-1 (Form 1065).**

5. Other Rental Income – Income received from the cash rental of property.

Other rental income is considered UNEARNED income as a result of self-employment. Rental income is determined by taking the total net rental income from all rental properties and adding in the depreciation or depletion. Depreciation and

depletion are added back in as these are not an allowable expense. **This income is generally included on Schedule E.**

6. Royalty Income – a percentage of gross or net revenues derived from the use of an asset or a fixed price of a unit sold of an item. Income individuals receive from royalties is considered **UNEARNED** income as a result of self-employment. **Royalty income is generally included on Schedule E.**
7. Cooperative distributions from the sale of goods is ~~unearned~~countable income and must not be deducted from farm income.
7. 8. S –Corporation – a separate business entity with 1 to 100 shareholder(s) that passes through the net profit or loss to their shareholder(s). The business profits are taxed at individual tax rates on each individual shareholder's income tax.

Income shareholders receive from a corporation is considered **UNEARNED** income as a result of self-employment. This income is generally included on the Schedule K-1 (1120S). The shareholder's income is determined by adding the shareholder's share of depreciation or depletion to their ordinary business income, net rental real estate income, interest income and dividend income. Depreciation and depletion are added back in as these are not an allowable expense. **Depreciation and depletion are generally found on the Form 1120S.**

**NOTE:** An owner or employee of a corporation is not a self-employed individual because the business income and liabilities belong to the corporation, not the individual. Wages that an owner or employee receive from a corporation are considered EARNED income.

8. 9. Estate or Trust Income – Income received from an estate or trust. Income individuals receive from estate or trusts is considered **UNEARNED** income as a result of self-employment. **Estate or trust income is generally included on Schedule E.**

### **Countable Unearned Income Types 400-19-55-20-15**

- Renamed number 8 from 'Proceeds Paid to Tribal Members' to 'Proceeds Paid to Tribal Members from Gaming or Gambling.'
- Added 'Proceeds Paid to Tribal members from Oil and Gas Revenue as

#9

- Renumbered remaining numbers.
- This incorporates Amended IM 5232 Three Affiliated Tribes People's Fund Distribution which was effective April 30, 2015.

### **Countable Unearned Income Types 400-19-55-20-15**

The types of unearned income listed below are counted in their entirety when determining TANF eligibility:

1. **Retirement, Survivors, and Disability Insurance** - Retirement, Survivors, and Disability Insurance (RSDI) is administered by the Social security Administration. This program provides workers and/or their families with partial replacement for loss of income due to retirement, disability, or death of the insured person.

Because of the broad coverage offered under RSDI, an exploration of a household's potential eligibility for benefits must be made whenever the employment history or other pertinent data suggest the possibility of entitlement.

Third Party Query (TPQY) and State Data Exchange (SDX) interfaces have been designed to provide TANF Eligibility Workers with prompt and accurate social security benefit entitlement information from the Social Security Administration. (For further information regarding these two interfaces, see Service Chapter 448-01-50-15.)

Additionally, private pensions may be available to assist families with partial replacement for loss of income due to retirement, disability, or death of an employed person. TANF requires that all-potential sources of income for earned rights benefits be explored by the household.

**Note:** Lump sum retroactive adjustment payments from Social Security due to changes in an individual's earnings record will be considered as follows:

- If the individual received SSA benefits AND had earnings in the year prior to the adjustment payment, the adjustment payment will be considered a recurring lump sum benefit.

- If the individual did not receive Social Security OR did not have earnings in the calendar year prior to the adjustment payment, the adjustment payment will be considered a non-recurring lump sum.

2. **Railroad Benefits** - Benefits can include payments for sickness or accident, dependent or survivors' benefits, job insurance, retirement, and funeral expenses. In order to attain a fully insured status and qualify for benefits, an individual must have a minimum of 120 months of railroad employment with 40 full quarters of coverage (10 years).

Applicants for and recipients of TANF with backgrounds in railroad employment must, whenever appropriate, be referred to the Railroad Retirement Board for an exploration of possible benefits. The Railroad Retirement Board is located in Room 219, Post Office Building, 657 Second Avenue North, Box 383, Fargo, North Dakota 58107. Information about railroad retirement benefits may be obtained by forwarding a written request to the Railroad Retirement Board at the Fargo address.

3. **Workforce Safety and Insurance (WSI), Unemployment Insurance Benefits (UIB), and VA Benefits** - Workforce Safety and Insurance Benefits, Unemployment Benefits, and Veteran's Benefits must be considered in determining the TANF benefit.

Since WSI and UIB benefits are also paid on an Electronic Benefits Card, income is considered received on the date:

- a. The income is received; or
- b. When available and the recipient has a legal ability to access the income for support or maintenance.

If the household cannot verify the date of actual receipt, the receipt date is deemed to be either:

- a. The date funds were deposited into the account based on a bank statement from U.S. Bank or their personal bank account; or

- b. Two working days after the date the WSI or UIB was processed.
4. **Public or Private Disability Payments** – Disability insurance coverage is designed to provide assistance to individuals who are injured, ill, or disabled and unable to work by paying them all or a portion of their salaries. A private disability insurance type of coverage can be obtained through an employer or through the purchase of a private insurance. These plans can provide short-term and long-term disability coverage or both. (E.g. State of North Dakota Disability benefits, AFLAC, CIGNA, Thrivent, etc.)
5. **Cash Contributions and Cash Gifts** --  
Cash contributions, regular and irregular, will be counted as unearned income and deducted dollar for dollar from the benefit. This will also include voluntary or court ordered support paid directly to the family by a responsible person or legally responsible obligor.  
**Note:** 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.  
Cash Gifts - Cash received by household members for special occasions such as birthdays, graduation, confirmation, Christmas, etc. are considered to be complementary in nature and will be disregarded up to \$500 per month per household. The cash gift must be related to a special occasion. If the cash gift is not related to a special occasion, it will be counted as a cash contribution and deducted dollar for dollar.
6. **Continuing Education and Job Training through PATH, Inc.** – Continuing Education and Job Training funds through PATH, Inc., a private agency, are money payments that are to be used for rent, school supplies and other living costs. Since this is used to meet the same basic needs as those provided under TANF, these payments are considered unearned income and not disregarded as a student educational assistance.

7. **Voluntary or Court-Ordered Support Payments** - If child 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 informing the TANF Eligibility Worker that child support has been paid to the State Disbursement Unit.

If child 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 TANF Eligibility Worker if child support for the second prospective month is not received by the last workday of the month.

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

If the household fails to contact the TANF Eligibility 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. **Child Support Received by the Household** - Child 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 child 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 child 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 Enforcement defines the collection month of a Child Support Payment as the date on which the payment is received by the State Disbursement Unit. Any child support received by the household during the first two prospective months which Child Support Enforcement 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.

When retrospectively budgeting, countable child support income is considered received on the date:

1. The income is received; or
2. When available and the recipient has a legal ability to access the income for support or maintenance.

If the household cannot determine the date of receipt, the receipt date is:

1. The date funds were deposited into the account based on a bank statement from U.S. Bank or their personal bank account; or
2. Two working days after the date on a child support check; or
3. Two working days after the date in the 'Check Date' field on the "View Eligibility Worker Ledger Details" screen in FACSES.

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 Enforcement program. If the TANF Eligibility Worker becomes aware the family has received support, the family should be advised that the support must be turned over to Child Support Enforcement program and the TANF Eligibility Worker should notify the State Disbursement Unit of the specific situation. Retention of assigned child 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 child 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 TANF Eligibility Worker is responsible for establishing overpayments if this type of unearned income occurs.

**Note:** 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 child 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.

**Note:** A lump sum child support payment received as a result of treasury offset is considered a non-recurring lump sum.

- b. **Extra Child Support Received by Household** - Extra child support received by a TANF recipient is deducted dollar for dollar from the TANF benefit. Extra money is support received by the State Disbursement Unit, which exceeds the total unreimbursed public assistance.
- c. **Child Support Retained Offset** - Federal law governs the distribution of child 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.

8. **Proceeds Paid to Tribal Members from Gaming or Gambling** - Any proceeds from tribal gaming, gambling establishments, or tribal enterprises distributed to enrolled tribal members (residing on or off a reservation) must be considered unearned income. Payments made to enrolled tribal members from the proceeds of gaming or gambling businesses are not per capita payments; therefore the income cannot be disregarded. (e.g. Three Affiliated Tribal Elderly Payments, Spirit Lake Social Impact Payments, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation District Days and quarterly cash payments from the Food Distribution Program, etc.);
9. **Proceeds Paid to Tribal Members from Oil and Gas Revenue** - Any proceeds from Tribal oil and gas revenue distributed to tribal members (residing on or off a reservation) must be considered unearned income. Payments made to enrolled tribal members from

the proceeds of oil and gas are not per capita payments; therefore the income cannot be disregarded (e.g. Three Affiliated Tribe General or People's Fund).

9. **10. Gaming or Gambling Winnings** - Gaming or gambling winnings from games of chance, such as slot machines, video machines, bingo, poker, black jack, pull tabs, etc. must be considered a non-recurring lump sum payment subject to the asset limitations in the second month following month of receipt. However, if a person receives any of the above on a regular basis, the income is counted as unearned income in the month of receipt.
10. **11. Individual Indian Monies (IIM)** - Most IIM accounts receive income from the use or sale of a trust asset, such as agricultural or grazing leases, coal production, timber harvesting, and oil and gas leases, gravel pit contract, sales, royalties. Funds can also come from a per capita payment, and from income earned on deposited funds. Some accounts receive proceeds from an estate account following a probate.

Income received by an individual Indian derived from that Indian's interests in trust or restricted lands will be counted as income. This includes leases on individually owned or restricted Indian lands. The income generally comes from interests in lands allotted to individual Indians many years ago.

The Omnibus Budget Reconciliation Act of 1993 provides that up to \$2,000 per year of this income must be disregarded. Funds in the IIM accounts that do not have a specific exclusion must be counted for TANF. Other moneys deposited in the accounts, such as inheritances, VA, SSA, SSI, gaming profits, per capita payments, etc. are not part of the \$2,000 exclusion, as they are either considered countable or excluded assets, or countable or exempt income in the month received.

Beginning January 1, 2003, client statement is an accepted verification of the amount in an IIM account unless one of the following applies:

- a. The amount is more than \$2000 for the year;

- b. The client statement information is questionable; or
- c. The IIM account includes countable income such as inheritance, bonuses, and other income that is not derived from leases, trust, or restricted land.

### Verification Options

There are three options by which verification may be obtained:

- a. Request for verification of IIM account information using form SFN 413, Individual Indian Monies Account. This form will need to be notarized per requirements of the United States Department of the Interior, Office of the Special Trustee for American Indians, Office of Trust Funds Management. These releases are valid for one (1) year and must be renewed annually.
- b. Individuals with IIM accounts receive statements from the Office of Trust Funds Management on a quarterly basis. A copy of this form may be requested from the recipient. However, the recipient will not receive the statement if the Office of Trust Funds Management does not have a current address.
- c. The individual may obtain a statement of their IIM account directly from the Office of Trust Funds Management through the Bureau of Indian Affairs (BIA) by requesting the information in person or by making a telephone request. In both cases, the individual will need to know their account number and provide at least two forms of identification.

At the time of application, verification of the deposits into the IIM account for the 12 month period prior to the month of application must be obtained. Deposits such as inheritances, VA, SSA, SSI, gaming profits, etc. must be deducted. Any countable income remaining must be divided by 12 to determine the monthly countable income for the next 12 months.

For on-going cases, a review of the IIM account is required on a yearly basis, when a child turns 18 years of age, when adding an

individual to a case, and when the amount in the account reaches the maximum allowable amount or is questionable. Countable income is pro-rated over a 12 month period. Any of the verification options identified above may be utilized to obtain the information.

### New Source Income

When new source income is deposited into an individual's IIM account, the countable amount for TANF will be determined as follows:

Verification of the IIM account must be obtained for the most recent FULL 12 month period through one of the three options identified above. Once verification of the IIM account is received, any deposits that will not be counted as IIM income will be subtracted (inheritances, VA, SSA, SSI, gaming profits, etc.). The most current month's countable new source income (or an average if received for multiple months) will be multiplied by 12 and added to all countable deposits for the 12-month period (excluding the new source income deposited into the IIM account). The \$2000 disregard will be subtracted and the remaining balance divided by 12 to determine the monthly countable unearned income.

**Example #1:** In 02/2009, the TANF Eligibility Worker learns that the individual began receiving a new source income in 02/2009 through their IIM account. The TANF Eligibility Worker will request verification of the IIM account for the period of 02/01/2008 thru 02/28/2009 (the most recent FULL 12 month period, plus the current month of 02/2009) to capture the amount of the new source income.

Reviewing the ledger, the TANF Eligibility Worker would determine which income is countable. The new source income deposited in February was \$850. Multiplying \$850 by 12 equals \$10,200. The countable income, not including the new source income, for the FULL 12 month period (02/01/2008 thru 01/31/2009) totals \$1,500. The total of income to be considered for the 12 month period is \$11,700 (\$10,200 plus \$1,500). After deducting the \$2000 disregarded amount from \$11,700, \$9,700 must be annualized and the monthly amount of \$808.33 counted as unearned income.

**Example #2:** A new application is received in 07/2009 and the TANF Eligibility Worker requests verification of the IIM account for the period of 07/01/2008 thru 06/30/2009, the most recent FULL 12 month period.

Reviewing the ledger, the TANF Eligibility Worker determines a new source income began to be deposited in 04/2009. The TANF Eligibility Worker would first determine which income is countable. The new source income deposited in April was \$850, in May was \$790 and in June was \$825. The three months of the new source income would be totaled and divided by 3 and the average would be projected for a 12 month period (\$2,465 divided by 3 equals \$821.67). Multiplying \$821.67 by 12 equals \$9,860.04. The countable income, not including the new source income, for the 12 month period totals \$87.29. The total of income to be considered for the 12 month period is \$9,947.33 (\$9860.04 plus \$87.29). After deducting the \$2000 disregard from \$9,947.33, \$7,947.33 must be annualized and the monthly amount of \$662.28 counted as unearned income.

Once a determination of the countable income has been made, TANF must begin counting the income when received and budgeted consistent with the individual's budget methodology.

**11.12. Refugee Cash Assistance Payments** – Payments received under the Refugee Cash Assistance Program or the Wilson/Fish Alternative Program, received by any member of a TANF household must be considered as unearned income in the calculation of TANF benefits for that household.

**12.13. Stipends/Subsistence Payments** – Any stipend/subsistence payment received while attending training that is specifically identified to cover the cost of daily living expenses must be counted as unearned income, as it is intended to cover the same basic needs as those provided under TANF.

**13.14. State Long Term Care Subsidy** – Individuals receiving a payment of up to \$20 from the State Long Term Care Subsidy Program.

**14.15. Workforce Investment Act (WIA)** - The Workforce Investment Act (WIA) reformed federal job training programs and created a new, comprehensive workforce investment system.

The groups covered under WIA are as follows:

- Low income workers – workers on assistance (SNAP, Medicaid, and TANF) or below the poverty level. This group includes the teens working in the summer program.
- Dislocated workers – farmers, homemakers, etc.
- Adult Program – employed adults who have not attained self-sufficiency.
- Youth Program – the program includes activities that promote youth development and citizenship, such as leadership development through voluntary community service opportunities; adult mentoring and follow-up; and targeted opportunities for youth living in high poverty areas. WIA may issue payments to these individuals.

Many of the programs offered are needs based assistance, on-the-job training, work experience activities, summer employment, and educational training.

WIA income received by adult TANF household members, minor parents, and children not attending school full-time is considered earned income and used to determine the TANF benefit. WIA income, earned or unearned, is disregarded when received by a dependent child under the age of 18, or age 18, and a full-time student in elementary or high school, GED course of study, alternative high school or in a vocational or technical school that is equivalent to secondary school if, before attaining age 19, such student can reasonably be expected to complete the training curriculum.

**15.16. YouthBuild** - Income received by adult TANF household members, minor parents, and children not attending school full-time is considered earned income and used to determine the TANF benefit. YouthBuild income, earned or unearned, is disregarded when

received by a dependent child under the age of 18, or age 18 and a full-time student in elementary or high school, GED course of study, alternative high school or in a vocational or technical school that is equivalent to secondary school if, before attaining age 19, such student can reasonably be expected to complete the training curriculum.

16. **17. Dividends and Interest** – Dividends and Interest derived from savings and checking accounts, investments, and insurance proceeds, but not settlements, paid directly to a TANF household member is counted as unearned income in the month in which it is received.

Accrued dividends and interest are considered assets rather than income and are subject to the asset limit even if the dividends and interest are later withdrawn.

17. **18. Money deposited into a Joint Checking or Savings Account** – Money deposited, when the depositor is not a member of the TANF household, is counted as unearned income in the month in which it is deposited.

18. **19. Conservation Reserve Program (CRP) Income** – When a CRP contract is set up, the full payment may be received by the landlord or operator, or a portion of the payment may be paid to a tenant of the farm. A portion of the payment is allowed to be paid to a tenant when the tenant was farming the land, or had an interest in the property (i.e. was on the previous contract), in the year before the contract was signed. The CRP contract specifies the amount of the payment and to whom the payment is made. For purposes of determining eligibility, only count the share the applicant or recipient receives per the CRP contract. Allowable expenses are those allowable costs of doing business that are claimed on the applicant or recipients tax return, including property taxes and insurance as a deduction.

19. **20. Lease Payments** – Payments made to persons for the use of lands occupied or owned by those persons.

- If the payments are received in equal monthly payments, that amount would be counted as monthly income.

- If the payments are received annually or received in regular annual totals, but in irregular intervals, the total of the annual income must be prorated over a twelve-month period and one-twelfth of the amount would be counted as monthly income.

**20.21. Mineral Lease Payments** - Payment from mineral leases is considered unearned income except initial leasing bonus payments.

**21.22. Trust Income Received on a Regular Basis** - When it is unclear whether an arrangement constitutes a trust, contact the Legal Advisory Unit. Submit all trusts to the Legal Advisory Unit for review and identify who is applying for assistance, send a complete copy of the trust agreement, provide verification of all assets owned by the trust, and provide any other relevant documents or information.

**22.23. General Assistance** - General assistance paid by cash or check directly to a TANF household, from the county social service office or Bureau of Indian Affairs, is treated as unearned income. General Assistance paid by voucher on behalf of a TANF household by the county social service office or the Bureau of Indian Affairs is disregarded.

**23.24. Veterans Benefits** - Veteran's pension or compensation, veteran's vocational rehabilitation subsistence payments and military allotments are counted as unearned income.

**24.25. Private Pensions** - Income from private or employer pensions are counted as unearned income.

**25.26. Rental Income** - Income from rental of rooms, apartments, or other property is considered unearned income.

**Note:** Income from room rentals is considered "earned" if the recipient is actively engaged in the venture by such means as making the bed, changing linens, cleaning the room, etc. If the income is determined to be earned, the first \$25 of income from each roomer is exempt to defray any associated expenses;

26. **27. Royalty Income** - Royalty income less mandatory production taxes withheld prior to distribution is counted as unearned income (income taxes withheld are not allowed to reduce the royalty payment);

27. **28. Trade Readjustment Allowance** – Payments made to individuals under the Trade Adjustment Assistance (TAA) Extension Act of 2011 who are not attending training as a result of being eligible under a training waiver (is under a waiver of the requirement to participate in training as training may be determined not feasible or appropriate and waived as a requirement for basic TRA eligibility) are considered unearned income.

28. **29. Other Unearned Income** – Other unearned income, received on a regular basis, is counted as unearned income.

### **Child or Adult Dependent Care 400-19-55-30-10**

- The three 'notes' in this section have been removed and aligned as they are current TANF policy.
- In the fifth paragraph, added the wording 'based on the age of the child' as clarification to defining the maximum amount of child care that can be allowed.
- In the second bullet, references to specific dollar amounts under CCAP have been removed and replaced with reference to allowing the maximum amount under CCAP.
- Spelling correction made in the third to last paragraph.

### **Child or Adult Dependent Care 400-19-55-30-10**

- Child Care -TANF allows a household the option of receiving child care expenses as a deduction from earned or unearned income, or as a reimbursement through the Child Care Assistance Program (CCAP).

**Note:** Child Care expenses as a result of employment are the ONLY child care expenses that can be allowed as a deduction from earned or unearned income. Child care expenses for education, training, participating in an allowable JOBS activity, etc., (other than paid employment) cannot be allowed as an expense from earned or

~~unearned income. These expenses must be reimbursed through CCAP.~~

Child care expenses as a result of employment are the ONLY child care expenses that can be allowed as a deduction from earned or unearned income. Child care expenses for education, training, participating in an allowable JOBS activity, etc., (other than paid employment) cannot be allowed as an expense from earned or unearned income. These expenses must be reimbursed through CCAP.

A family can switch from using their child care costs as an expense under TANF to requesting reimbursement of their costs through the CCAP any time before the end of the month or before benefits have been issued under TANF or the CCAP Child Care Assistance Program. Requests for such a change must be made in writing. However, once benefits are issued under either program, a family cannot request a change.

**Note:** When CCAP pays a child care provider a portion of the child care expenses, any amounts not paid by CCAP cannot be allowed as a deduction.

When CCAP pays a child care provider a portion of the child care expenses, any amounts not paid by CCAP cannot be allowed as a deduction.

The amount of the expenses allowed under TANF for the cost of child care, cannot exceed the maximum allowed under CCAP based on the age of the child and for the Provider Type of 'Center'.

Requests to allow an expense for the cost of child care provided to children between 13 and 18 years of age will require current, medical evidence from a physician, psychologist, or clinical specialist that clearly confirms the need.

Any child care expenses that exceed the allowable CCAP maximums can neither be paid through CCAP nor allowed as an income deduction. Child care costs deducted from the TANF gross income cannot be paid through CCAP.

If the employed TANF household member is a non-legally responsible ineligible TANF caretaker, the child care expense cannot be allowed as a deduction. However, the household may apply for assistance under the CCAP Child Care Assistance Program.

Child care costs must be verified by use of a completed SFN 616, "Child

Care Assistance Program and Child Care Service Report and Bill" (See Forms Appendix), or by obtaining information from provider documents containing the same information. These costs are budgeted prospectively for the initial two months and retrospectively thereafter.

- Adult Dependent Care - The allowable deduction for the cost of adult dependent care for incapacitated adult living in the same home are not to exceed the maximum allowable rate of \$610 for the provider type of 'Center' under CCAP per month, and will be disregarded from countable household income. However, the incapacitated adult must be an eligible TANF household member receiving TANF benefits.

**Note:** ~~Verification must be received from the incapacitated adult's medical provider showing care is required.~~

Verification must be received from the incapacitated adult's medical provider showing care is required.

Adult ~~D~~dependent care expenses allowed when determining net household income cannot be paid through essential services or JOBS supportive services.

Adult dependent care costs must be verified and budgeted prospectively for the initial two months and retrospectively thereafter.

Adult dependent care costs shall be verified by obtaining a document signed by the provider which identifies the individual requiring the care, the month of service, the hours of care provided, and expenses incurred.

## **Special Items of Need 400-19-60**

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

- Changed TANF Standard of Need throughout this section to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase which was effective July 1, 2015.
- Added a paragraph to identify Total TANF Standard of Need for Kinship Care.
- Grammar correction made in Exception 1 under the second paragraph. A hyphen added between the words 'well being'.

**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 ~~\$328~~ \$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 ~~\$328~~ \$335 and results in a Total TANF Standard of Need of ~~\$428.00~~ \$435 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.

**Paternity 400-19-70-15**

- 400-19-70-15 – In the first bullet under the first paragraph 'husband' has been changed to 'spouse' and the 'father' has been changed to 'parent'. This supersedes IM 5254 Definition of Spouse/Marriage which was effective July 20, 2015.

**Paternity 400-19-70-15**

Paternity is considered legally established by marriage, adoption, adjudication in a court proceeding or through voluntary acknowledgement. Prior to authorizing TANF eligibility, the TANF Eligibility Worker must determine whether or not paternity of a child has been established.

- Marriage – If a couple is married when the child is born, the husband spouse is presumed to be the father parent of the child. In addition, the husband spouse is presumed to be the father parent of the child if the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court. This is true even if the mother claims someone else is or may be the child's biological father parent.
- Adoption – If a child is adopted, the adopted parent(s) is considered the parent(s) at the time the final order is issued.
- Adjudication – When a child is born out of wedlock, it is the responsibility of Child Support Enforcement to secure an adjudication of paternity in a court proceeding, if necessary. However, an adjudication of paternity may also be secured by an attorney representing either parent.
- Voluntary Acknowledgment of Paternity – SFN 8195, North Dakota Acknowledgment of Paternity, with a revision date of 4/98 or later, is a legal document that unmarried parents may sign to acknowledge paternity of a child. It has the force and effect of a relationship of father parent and child established through a court. Often, this form is signed in the hospital at the time of the child's birth. The father's parent's name is added to the birth certificate based on the Voluntary Acknowledgment of Paternity.

**Net Income Eligibility Test 400-19-105-30**

- Added Kinship Care maintenance Payment as part of the Total TANF

Standard of Need. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015.

### **Net Income Eligibility Test 400-19-105-30**

Households must meet the net income test in order to be eligible for TANF. This test compares the adjusted net income to the Total TANF Standard of Need (which includes the \$45 personal needs allowance for out-of-home TANF eligible individuals, Kinship Care maintenance payment and special items of need).

- If the adjusted net income is greater than or equal to the Total TANF Standard of Need, the household does not meet the financial eligibility criteria and the household is ineligible for TANF benefits.
- If the adjusted net income is less than the Total TANF Standard of Need, the household meets the financial eligibility criteria. If all other factors of eligibility are met, the TANF benefit is calculated.

### **TANF Benefit Calculation 400-19-110**

#### **TANF Standard of Need 400-19-110-05**

- Changed TANF Standard of Need throughout this section to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase which was effective July 1, 2015.
- In the TANF Basic Standard of Need Chart, removed the 'amount for each additional child' column and added a statement to contact the State Office for amounts for TANF household with more than 10 children. This supersedes Amended IM 5247 TANF Standard of Need Increase which was effective July 1, 2015.

#### **TANF Standard of Need 400-19-110-05**

TANF uses a standardized and simplified method for determining need. The TANF Basic Standard of Need is applied to all households. The six basic items of need, which represent 100% of the TANF Basic Standard of Need as currently defined by the department, are:

- Shelter;
- Food;
- Clothing;

- Personal needs (e.g. combs, toothbrushes, razor blades, sanitary supplies, and haircuts);
- Household supplies (e.g. cooking utensils, laundry, bedding, and towels); and
- Fuel and utilities.

### **TANF BASIC STANDARD OF NEED CHART**

No. of Care Takers	Number of children											For each added child
	0	1	2	3	4	5	6	7	8	9	10	
0	0	163	238	310	385	457	532	605	679	752	826	72
		166	243	316	393	466	543	617	693	767	843	
1	232	328	427	523	620	717	814	911	1008	1105	1201	96
	237	335	436	533	632	731	830	929	1028	1127	1225	
2	328	427	523	620	717	814	911	1008	1105	1201	1299	96
	335	436	533	632	731	830	929	1028	1127	1225	1325	

Contact State TANF Policy for Standard of Need amounts for households with more than 10 children.

### **Determining the Standard of Need in Various Circumstances**

#### **400-19-110-10**

- Changed TANF Standard of Need throughout this section to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase which was effective July 1, 2015.

### **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 \$232 \$237 for one Caretaker or \$328 \$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. If the only legally responsible caretaker is disqualified for reasons of their Alien, Drug or Fraud status, (DA, DD, or DF), the TANF Basic Standard of Need is based on zero caretakers and the number of eligible children.
7. 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. 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 Drug or Fraud status (DD, 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.

### **TANF Financial Eligibility Determination 400-19-110-15**

- Added Kinship Care maintenance payment in determining Total TANF Standard of Need. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015.
- Changed TANF Standard of Need to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase which was effective July 1, 2015.

### **TANF Financial Eligibility Determination 400-19-110-15**

In order to be eligible for TANF benefits, the household must pass TANF Financial Eligibility. At the time the TANF Financial Eligibility Determination is calculated, the \$45 Out of Home Allowance, Kinship Care maintenance payment and Special Items of Need are added to the appropriate TANF Basic Standard of Need to determine the Total TANF Standard of Need.

TANF Financial Eligibility is determined as follows:

1. The \$45 Out of Home Allowance, Kinship Care maintenance payment and Special Items of Need are added to the TANF Basic Standard of Need to arrive at the Total TANF Standard of Need.
2. The Total Countable Income (sum of countable unearned and earned income), the Benefit Cap Deduction and the Sanction Penalty Deduction are subtracted from the Total TANF Standard of Need.
  - If the remaining amount is zero or less, the TANF household fails the TANF Financial Eligibility Determination and the application must be denied or the case closed.

- If the remaining amount is greater than zero, the household passes the TANF Financial Eligibility Determination; the TANF Benefit Calculation is performed.

**Example:**

TANF Basic Standard of Need	-	328.00 <u>335.00</u> (1 caretaker and 1 child)
OH Allowance	=	0.00
TANF Special Items of Need	+	100.00
Total TANF Standard of Need	=	428.00 <u>435.00</u>
Total Countable Income	-	365.00
Benefit Cap Deduction	-	0.00
Sanction Penalty Deduction	-	0.00
Remaining Amount	=	73.00 <u>70.00</u>

Since the Remaining Amount is greater than zero, this household passes TANF Financial Eligibility and the benefit is calculated.

**TANF Benefit Calculation Method 400-19-110-20**

- Number three in the first paragraph has been changed to correct manual section reference.
- Added Kinship Care maintenance payment in determining the total Standard of Need. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015.
- Changed TANF Standard of Need to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase which was effective July 1, 2015.

**TANF Benefit Calculation Method 400-19-110-20**

If the TANF household passes the TANF Financial Eligibility Determination, the TANF benefit calculation is computed as follows:

1. The monthly gross earned income of the household is calculated according to the rules found in this chapter.
2. A standard work expense disregard of the greater of 27% or \$180.00 is subtracted from the household's gross earned income.
3. A time-limited percentage is subtracted from the remaining earned income to arrive at the countable earned income amount. (See 17-55-40, 400-19-105-25 Employment Disregards, for the time-limited percentage disregard cycle.)
4. Unearned income is added to the countable earned income amount to determine the total countable income for the household.
5. A Non-household member deduction is subtracted when calculating stepparent and minor parent budgeting, if applicable.
6. The following allowable expense amounts are subtracted from the total countable income to arrive at the adjusted net income:
  - Paid child or spousal support by a TANF household member,
  - Child or adult dependent care for paid employment subject to the maximum limits,

**Note:** When the Child Care Assistance Program (CCAP) pays a child care provider a portion of the child care expenses, any amounts not paid by CCAP cannot be allowed as a deduction.

  - Stepparent or Minor Parent budgeting allows the following additional expenses:
    - Health insurance premiums;
    - Amounts paid to any others not living in the home, but claimed as dependents on income tax returns, if applicable.
7. The TANF Basic Standard of Need, plus the \$45 Out of Home Allowance and Kinship Care maintenance payment if applicable is totaled, to arrive at the Total Standard of Need.

**Note:** Individuals eligible for the \$45.00 Out of Home Allowance are not included in the household size when identifying the TANF Basic Standard of Need amount from the TANF Basic Standard of Need Chart in Manual Section 400-19-

110-05.

8. The Benefit Amount to which any prorate applies is arrived at by subtracting the adjusted net income from the Basic Standard of Need plus Out of Home Allowance.

To arrive at the Adjusted Benefit Amount, from the prorated benefit subtract:

- The Benefit Cap Deduction amount; and
- The Sanction/Work Requirement Deduction amount.

9. The following are added to the TANF Benefit/Prorated Benefit Amount to arrive at the Adjusted Net Benefit amount:

- Special Items of Need, and
- Kinship Care Supportive Services

**Note:** If the case is Transition Assistance, the TANF Benefit/Prorate Benefit Amount will be zero and the TANF Special Items of Need are added to the Transition Assistance payment.

10. Recoupment amounts (either a percentage of the Standard of Need or a fixed dollar amount) are subtracted from the Adjusted Net Benefit to arrive at the Benefit Amount.

- a. If a correction to a previously paid benefit is being computed,
  - The Benefit Amount will display the revised benefit; and
  - The original amount paid will display in the Previously Paid field; and
  - The previously paid benefit will be subtracted from the Benefit Amount to arrive at the Net Benefit Amount.

11. If this budget is not a correction, the Benefit Amount is carried to the Net Benefit Amount field.

12. JOBS Supportive Services are added to the Net Benefit Amount to arrive at the Benefit Issued Amount.

**Note:** If a correction to a previously paid JOBS Supportive Service is being computed,

- The JOBS Supportive Services will display the revised benefit; and
- The original JOBS Supportive Services paid will display in the Previously Paid JOBS Supportive Services to arrive at the Net Supportive Services.

13. If this budget is not a correction to JOBS Supportive Services, the Net Supportive Services are added to the Net Benefit Amount to arrive at the Benefit Issued.

**EXAMPLE:**

Household consists of a caretaker and one dependent child. The household reports earned income of \$1000 per month and a \$100 Health Insurance Premium

1.	Total Gross Earned Income		1000.00
2.	Standard Work Expense	-	270.00 (1000 x27%)
3.	TANF TLP Disregard	-	365.00 (730 x 50%)
3.	Countable Earned Income	=	365.00
4.	Unearned Income	+	0.00
4.	Total Countable Income	=	365.00
5.	Non-HH Member Deduction	-	0.00
6.	Expenses	-	0.00
6.	Adjusted Net Income	=	365.00
7.	Standard of Need	-	328.00 <u>\$335</u> (1 caretaker and 1 child)
7.	OH Allowance	+	0.00
7.	Adjusted Net Income	-	365.00
8.	Benefit Amount	=	0.00
8.	Prorated Benefit Amount	=	0.00
8.	Benefit Cap Deduction	-	0.00
8.	Sanction/Wrk Req	-	0.00

Deduction

8.	Adjusted Benefit Amount	=	0.00
9.	TANF Special Items of Need	+	100.00
9.	Kinship Care	+	0.00
9.	Transition Assistance	=	0.00
9.	Adjusted Net Benefit	=	100.00
10.	Recoupments	-	0.00
10.	Benefit Amount	=	100.00
10.	Previously Paid	-	0.00
11.	Net Benefit Amount	=	100.00
12.	JOBS Supportive Services	+	0.00
12.	Previously Paid JOBS SS	-	0.00
12.	Net Supportive Services	=	0.00
13.	Benefit Issued	=	100.00

The minimum TANF benefit is \$10.00. If the benefit is less than \$10.00, a benefit will not be issued. This includes benefits for the initial month that are less than \$10.00 due to prorate.

**Note:** The \$10.00 minimum benefit rule does not apply to JOBS Supportive Services.

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

- Added Kinship Care maintenance payment as part of the Total Basic Standard of Need. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015.
- Changed TANF Standard of Need throughout this section to reflect the new TANF Standard of Need amounts. This supersedes Amended IM 5247 TANF Standard of Need Increase which was effective July 1, 2015.

#### **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	-	523.00 <del>533.00</del> (1 caretaker and 3 children)
OH Allowance	+	0.00
Adjusted Net Income	-	160.00
Benefit Amount	=	<del>363.00</del> <del>373.00</del>
Prorated Benefit Amount	=	<del>257.00</del> <del>264.00</del> ( <del>363.00</del> <del>373.00</del> - <del>105.38</del> <del>108.28</del> ) (9 days divided by 31 = 29.03 %; <del>363.00</del> <del>373.00</del> x 29.03 = <del>105.38</del> <del>108.28</del> is the amount ineligible for)
Benefit Cap Deduction	-	0.00
Sanction/Wrk Req Dedction	-	232.00 <del>237.00</del>
Adjusted Benefit Amount	=	<del>25.00</del> <del>27.00</del>
TANF Special Items of Need	+	100.00
Kinship Care	+	0.00
Transition Assistance	+	0.00
Adjusted Net Benefit	=	<del>125.00</del> <del>127.00</del>
Recoupments	-	0.00
Benefit Amount	=	<del>125.00</del> <del>127.00</del>
Previously Paid	-	0.00
Net Benefit Amount	=	<del>125.00</del> <del>127.00</del>
JOBS Supportive Services	=	0.00
Previously Paid JOBS SS	-	0.00

Net Supportive Services	=	0.00
Benefit Issued	=	125.00 <b>127.00</b>

**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 OH 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.)

## **TANF Payment Process 400-19-120**

### **Authorizing Payments 400-19-120-05**

- Added utilizing Protective Payee when the Primary Individual (PI) of the case does not have a Social Security Number.

### **Authorizing Payments 400-19-120-05**

Once eligibility has been determined, initial and all subsequent payments must be authorized monthly in order for the automated computer system to issue a payment electronically onto the debit card (or by check if the case has a protective payee).

When the Primary Individual (PI) does not have a Social Security Number, a benefit cannot be deposited onto the Reliacard. In these situations, a Protective Payee should be utilized.

## **Protective Payments 400-19-120-35**

- Added utilizing Protective Payee when the Primary Individual (PI) of the case does not have a Social Security Number.

### **Protective Payments 400-19-120-35**

While Protective Payments are optional, they are an alternative to issuing benefits directly to recipients. Protective payments direct a recipient's assistance benefits to a third party, referred to as a Protective Payee, rather than the recipient. The Protective Payee is responsible to pay for the recipient's needs up to the amount of the benefit.

When the Primary Individual (PI) does not have a Social Security Number, a benefit cannot be deposited onto the Reliacard. In these situations, a Protective Payee should be utilized.

Protective Payments allow the TANF Eligibility Worker, under certain conditions, to request a third party to act for the recipient in receiving and managing payments. This departure from the unrestricted money payment principle can be used in any of the following circumstances:

1. The primary individual has demonstrated such inability to manage funds that the health and safety of the child(ren), themselves, or other household members are being seriously compromised; or
2. The primary individual has failed, without "good cause," to cooperate with Child Support Enforcement and/or JOBS; or
3. The primary individual is administratively disqualified for fraud.

When the Protective Payment method is utilized, the TANF Eligibility Worker and the recipient must agree on the selection of the designated payee. If they are unable to agree on the selection or a protective payee cannot be secured, the TANF Eligibility Worker may continue to make the TANF payment to the primary individual.

The Protective Payment is designed for TANF recipients who have the capacity to learn to manage their funds more efficiently. This method should not be utilized for a period of more than 2 months, while the individual is receiving services to improve money management (attending budget counseling, instructions on purchasing necessary items, etc.). See Section 400-19-120-55, Services to Improve Money Management.

When a primary individual has failed, without "good cause", to cooperate with Child Support Enforcement and/or JOBS or is administratively disqualified for fraud, the Protective Payment method may be utilized for longer periods. The Protective Payee method is not intended for recipients whose limitations will likely prevent them from learning how to manage their own affairs. In these situations, long term assistance should be pursued from outside agencies to assist the individual in managing their benefits.

### **Notification of Overpayment 400-19-130-20**

- Added Kinship Care maintenance payment as part of the Total TANF Standard of Need in determining the recoupment amount. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015.

### **Notification of Overpayment 400-19-130-20**

Once the case is reworked for the affected month(s) and overpayments established, the household must be sent the 'Notification of Overpayment' notice. This notice informs the household of the amount of the overpayment, the reason for the overpayment, and that future TANF benefit

will be reduced until the overpayment is fully recovered.

**Note:** TANF does not send a Demand for Payment notice. The recoupment method is established by the state at the appropriate percentage of the Total TANF Standard of Need (which includes the \$45 OH Out of Home allowance, Kinship Care maintenance payment and Special Items of Need), unless the households chooses to repay at a rate which equals or exceeds the appropriate percentage.

### **Recoupments 400-19-130-25**

- Added Kinship Care maintenance payment in determining recoupment amounts. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015.

### **Recoupments 400-19-130-25**

The TANF Eligibility Worker must promptly take all reasonable and practical steps to recoup all overpayments. "Promptly" means that action to recoup shall be initiated in the month following the month in which the overpayment is authorized, provided an adequate notice has been provided. No distinction is made between willful and unwillful withholding of, or failure to report information that affects eligibility or the amount of the TANF benefit. Overpayments are recouped from households which include a responsible member.

**Note:** If the household has an existing overpayment, benefits from the initial TANF grant and each subsequent month's grant will be reduced until the overpayment is fully recovered.

Any overpayment, whether resulting from an error made by the household, administrative error, fraud, or from assistance granted pending a fair hearing decision subsequently made in favor of the county social service office is subject to recovery regardless of when the overpayment occurred.

**Note:** Only overpayments occurring under North Dakota programs (AFDC or TANF) can be recouped. Requests from other states for recoupment cannot be honored.

Recoupments of regular TANF, Transition Assistance, Kinship Care, Kinship Care maintenance payment, and Diversion overpayments will be processed as follows:

1. All regular TANF, Transition Assistance and Special Items of Need are considered assistance. Therefore, TANF overpayments can be recouped

from other TANF Benefits, including Transition Assistance, Kinship Care, Kinship Care maintenance payment, \$45 Out of Home Allowance, Special Items of Need and JOBS Supportive Services other than Transportation.

**Note:** Special Items of Need include Child Restraint Seat Reimbursement, Essential Services Reimbursement, GED/HS Diploma Incentive, Health Insurance Reimbursement, Health Tracks Reimbursement, Special Project Incentives, Special Projects Work Subsidies, and Unforeseen Circumstances.

2. JOBS Supportive Services are considered assistance with the exception of the Transportation allowance for an individual who is employed.
  - a. Transportation Allowances – TANF Policy does not allow overpayments for Transportation Allowances to be established. Therefore, recoupments are not made for Transportation.
  - b. All other JOBS Supportive Services overpayments can be recouped from other TANF Benefits, including Transition Assistance, Kinship Care, \$45 Out of Home Allowance, Special Items of Need, and JOBS Supportive Services other than Transportation.

**Note #1:** JOBS Supportive Services include Care of an Incapacitated HH Member, Job Readiness, License, Certification & Exam Fees, Relocation Assistance, Tools for Employment, Tuition Assistance, Relocation Assistance, etc.

**Note #2:** When payment of any of these JOBS Supportive Services is made through the Vendor Payment Process, a manual overpayment must be established under the Type Code of TANF.

3. TANF Kinship Care is considered assistance. Therefore, all Kinship Care overpayments can be recouped from other TANF Benefits, including Transition Assistance, Kinship Care, Kinship Care maintenance

payment, \$45 Out of Home Allowance, Special Items of Need and JOBS Supportive Services other than Transportation.

**Note #1:** Kinship Care includes the Kinship Care Grant, Kinship Care maintenance payment, Child Care Employment, Child Care Training/Work Search, Clothing Allowance, Emergency Need, Legal Services Reimbursement, School Supplies and Activities, and Transportation Reimbursement.

**Note #2:** When a payment of any of these Kinship Care Supportive Services is made through the Vendor Payment Process, a manual overpayment must be established under the Type Code of TANF.

4. Diversion benefits are not considered assistance.
  - a. Transportation Allowances under Diversion – TANF Policy does not allow overpayments for Transportation Allowances to be established. Therefore, recoupments are not made for Transportation.
  - b. Diversion benefits can only be recouped from Diversion benefits.

**Note:** Diversion benefits include Emergency Household Needs, Child Restraint Seat Reimbursement, Essential Services Reimbursement, GED/HS Diploma Incentive, Health Insurance Reimbursement, Health Tracks Reimbursement, Job Related Expenses, and Unforeseen Circumstances.

Methods of recovering overpayments from participants are:

1. Automatic recoupment from the TANF grant; or
2. Voluntary repayment agreement – an overpayment repayment agreement is a payment plan the client and the county agency agree to as a method of repaying an overpayment; or
3. Criminal restitution.

The amount recouped is based on either a monthly amount or percentage of the Total TANF Standard of Need (which includes the \$45 OH Out of Home Allowance and Special Items of Need). Regardless of the method

chosen, the amount recouped cannot be less than:

- 10% for agency and client (non-fraud) related errors; or
- 20% for intentional program violations (fraud).

#### Administrative or Client Non-Fraud

Recovery of all administrative or client non-fraud overpayments is accomplished by reducing the TANF benefit in an amount equal to 10% percent of the Total TANF Standard of Need (which includes the \$45 OH allowance and Special Items of Need) for the appropriate household size. A recipient may repay the amount of overpayment at a rate greater than the 10% standard as long as the decision to do so is voluntary and a signed agreement is in the case file.

#### Fraud

Recovery of all overpayments resulting from fraud is accomplished by reducing the TANF benefit in an amount equal to 20% of the Total TANF Standard of Need (which includes the \$45 OH Out of Home allowance and Special Items of Need) for the appropriate household size. A recipient may repay the amount of overpayment at a rate greater than the 20% standard as long as the decision to do so is voluntary and a signed agreement is in the case file.

- If the court has ordered an amount of recovery, either more or less than the amount identified above, the amount ordered by the court will be the only amount recovered.

Individuals responsible for repayment are all caretakers age 18 or older as well as a minor parent under age 18 who were members of the household at the time the overpayment occurred. Overpayments follow the responsible member to a new case if the member was part of the overpaid benefit received in another case at the time the overpayment occurred. All responsible individuals remain equally responsible for the overpayment.

A complete record of the overpayment, the plan for recovery, recoveries made, and any outstanding balance will be included in the automated computer system case file.

A regular or supplemental benefit payment, defined as a payment issued in the month for the month, cannot totally offset an overpayment. A regular or supplemental benefit payment may be reduced only by the percentage of

recoupment (usually 10% or 20%, but may differ pursuant to court order) or a set dollar amount as specified by court order. However, an underpayment, defined as a payment for a benefit month issued at any time after the benefit month, can totally offset an overpayment.

**Intentional Program Violations (IPV) 400-19-137****Intentional Program Violations 400-19-137-05**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

**Intentional Program Violations (IPV) 400-19-137****Intentional Program Violations 400-19-137-05**

An Intentional Program Violation (IPV) is defined as "an action by an individual, for the purpose of establishing or maintaining eligibility for TANF for increasing or preventing a reduction in the amount of assistance or having used their TANF ReliaCard in a liquor store; a casino, gambling casino, or gaming establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment".

In order to determine if an individual(s) has committed an IPV, that individual must have intentionally:

1. Made a false or misleading statement, misrepresented, concealed, or withheld facts.

**Examples:**

- A source of income or assets
- A household member

2. Committed any act intended to mislead, misrepresent, conceal, or withhold facts that constitutes a violation of the TANF program or any State statute.

**Example: Trafficking of the Electronic Payment Card or PIN**

3. Used their TANF ReliaCard in a liquor store; a casino, gambling casino, or gaming establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment.

The use of the term "intentionally" in the regulations does not mean the TANF Eligibility Worker has the burden of proving that an individual intended to commit a fraudulent act. The TANF Eligibility Worker does not have to prove a deliberate intent to defraud. An individual's signature on the application or monthly report attests to providing full information and to understanding the reporting requirements.

**Example:** Intent is satisfied if an individual is aware of the mandatory reporting requirements, but for whatever reason did not report.

If an individual does not report a change within five calendar days of such change, a program violation may have occurred. An IPV may exist regardless of whether an overpayment is established. There is no requirement that an overpayment exist when pursuing IPV.

If it is learned through the Income Eligibility Verification System (IEVS) or any other source and later verified that a recipient received earned income during a previous month or months when TANF was received and the income had not been reported, the case must be reworked for the month(s); and if it is determined to be an intentional program violation, the late penalty applies.

An Intentional Program Violation (IPV) is an action by an individual, for the purpose of:

- Improperly establishing or maintaining eligibility for assistance; or
- Increasing or preventing a reduction in the amount of assistance; or
- Having used their TANF ReliaCard in a liquor store; a casino, gambling casino, or gaming establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment.

**EXCEPTION:** An IPV will NOT be pursued against a TANF recipient who uses their TANF ReliaCard in any liquor store; any casino, gambling casino, or gaming establishment, or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment when:

- A recipient of TANF does not have any adequate access to their cash assistance other than one of the establishments listed above; or

- A recipient of TANF does not have access to using or withdrawing assistance with a minimal fee or charge, including an opportunity to access assistance with no fee or charge.

Any individual who is suspected of an IPV must be referred to:

1. The Appeals Supervisor in the Legal Advisory Unit (LAU) for a determination of an IPV; or
2. The court system for a determination of fraud

In order to determine an IPV, that individual must have intentionally committed one of the following:

1. Any act or false statement intended to mislead, misrepresent, conceal, or withhold facts.

**Examples:**

- A source of income
- A household member
- Receiving or attempting to receive assistance in multiple states at the same time
- Falsified documents
- An asset
- Trafficking of the Electronic Payment Card or PIN

2. Committed any act intended to mislead, misrepresent, conceal, or withhold facts that constitutes a violation of the TANF program or any State or Federal statute.
3. Used their TANF ReliaCard in a liquor store; a casino, gambling casino, or gambling establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment.

**EXCEPTION:** An IPV will NOT be pursued against a TANF recipient who uses their TANF Reliacard in any liquor store; any casino, gambling casino, or gaming establishment, or any retail establishment which provides adult-oriented entertainment in

which performers disrobe or perform in an unclothed state of entertainment when:

- A recipient of TANF does not have any adequate access to their cash assistance other than one of the establishments listed above; or
- A recipient of TANF does not have access to using or withdrawing assistance with a minimal fee or charge, including an opportunity to access assistance with no fee or charge

It is the act and not the amount of improper benefit received that must be considered. There is no requirement that an overpayment exist when pursuing IPV.

### **Evidence Evaluation 400-19-137-10**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

### **Evidence Evaluation 400-19-137-10**

~~The following procedure is suggested to evaluate the evidence to determine if a violation has been committed:~~

1. ~~Review the case and all evidence with the eligibility supervisor, director, or the regional representative of Economic Assistance.~~
2. ~~If the evidence is sufficient for referral to the hearings officer, the referral shall be made regardless of any legal action planned against the household member.~~

The county has the burden to establish an Intentional Program Violation (IPV) by clear and convincing evidence. Clear and convincing evidence means evidence that leads to a firm belief that the allegations are true.

### **Examples:**

- Application, review, and monthly report forms. An individual's signature on these forms is attesting to providing full information and to understanding the reporting requirements.
- Statements made during application or review interviews

- Notice of benefits
- A past IPV for failure to report
- Reporting/billing forms
- Narratives
- Documented phone calls
- IEVS verification
- Involvement of an interpreter

When there is evidence a possible IPV has been committed, it is suggested the county review the case and all evidence with the supervisor, director, or a regional representative.

This review will result in a decision to:

- Proceed with the IPV process, or
- Proceed with a client error.

When reviewing the evidence for a possible IPV the individual must be allowed an opportunity to respond to any unresolved questions.

### **Initiating an Intentional Program Violation 400-19-137-15**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

### **Initiating an Intentional Program Violation 400-19-137-15**

In instances when there is sufficient evidence to substantiate that an individual has committed one or more acts of intentional program violation (IPV), the county must complete the SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation.

The SFN 1940 is intended to:

1. Notify an individual in writing when that individual is suspected of having committed an IPV;
2. Inform the individual of their hearing rights and hearing procedures;
3. Allow the individual the right to waive the hearing;
4. Allow an individual to request a hearing officer be present at the hearing rather than a telephone hearing.

### **When completing the form:**

a. List the name and current address of the individual suspected of IPV.

There may be occasions when more than one individual gave a false report or were interviewed together and in those cases, prepare a **separate** SFN 1940 for each individual.

b. Describe the violation of program rules including:

- Information provided that is deemed incorrect;
- Facts that were not revealed;
- How and when information and verifications were submitted by the individual.

c. The evidence disputing the accuracy of the individual's statements, when and where it came from;

d. When and with whom discussions were conducted, the outcomes of which contradict the individual's statements;

e. What documents were provided that should have included information not revealed, and when were they submitted;

f. Document how the individual was aware of the reporting requirement;

g. The form must be **signed** by the county (an electronic signature is acceptable).

The individual will continue to participate as a household member while awaiting a disqualification decision. Recoupment of any overpayment continues to be collected at the rate of 10%. Full repayment of the overpayment does not stop the disqualification procedure from taking place.

An IPV can be pursued if a client is permanently disqualified. Pursuing the IPV will allow for recoupment of a claim at 20% rather than 10% if recoupment is possible.

**Scheduled Intentional Program Violation Meeting 400-19-137-20**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

**Scheduled Intentional Program Violation Meeting 400-19-137-20**

After completing the SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation, the county must schedule a meeting with the individual to discuss the suspected Intentional Program Violation (IPV) within two weeks using a system generated correspondence notice.

If the correspondence notice is returned as undeliverable or with no forwarding address, the IPV information must be placed in the casefile until an address is known. The suspected IPV cannot be pursued until the individual is made aware of the suspected violation.

If the worker had conversation with the individual regarding the suspected IPV, even if the correspondence notice is returned as undeliverable, the IPV can continue to be pursued. The worker must document the conversation that was held with the individual.

If the individual fails to attend the scheduled meeting without satisfactory explanation within three days after the meeting, the county must mail the original SFN 1940 along with a letter detailing the violation and copies of all evidence of the suspected IPV to:

Appeals Supervisor  
North Dakota Department of Human Services,  
Judicial Wing  
600 East Boulevard Avenue Dept. 325  
Bismarck, ND 58505-0250

If the individual attends the scheduled meeting the county must:

1. Provide the individual with a copy of the SFN 1940;
2. Provide the individual with a DN 1087 - Legal Service Organizations;

3. Discuss the suspected IPV

If it is determined that no violation has occurred, SFN 1940 must be placed in the file with a notation that it was not forwarded for further action and a summary of the explanation given by the individual.

If the county believes the violation did occur and the individual does not have a satisfactory explanation the county must explain the following options to the individual:

- Sign Waiver A – Which allows an individual to admit to the facts and accept the disqualification period;
- Sign Waiver B – Which allows an individual to accept the disqualification without admitting to the facts;
- Request an administrative disqualification hearing.

The county must explain signing Part A or B of the Waiver of Hearing will result in specific program disqualification time periods and penalties.

A signed waiver is a statement that the individual has been informed a disqualification penalty will result.

If the individual suspected of an IPV:

1. Chooses to sign the Waiver of Hearing:

- Provide the individual a **signed** copy of SFN 1940.
- Mail the SFN 1940, detailing the violation to:  
Appeals Supervisor  
North Dakota Department of Human Services,  
Judicial Wing  
600 East Boulevard Avenue Dept. 325  
Bismarck, ND 58505-0250.
- If Part B is signed, a cover letter detailing why the individual signed Part B rather than Part A must also be sent to the Appeals Supervisor.

2. Chooses not to sign the Waiver of Hearing:

- Give the individual a copy of the SFN 1940.
- Explain that a hearing will be held by telephone unless the individual requests an administrative law judge will be present.

- Mail the original SFN 1940 along with a letter detailing the violation and copies of all evidence of the potential IPV to:

Appeals Supervisor  
North Dakota Department of Human Services,  
Judicial Wing  
600 East Boulevard Avenue Dept. 325  
Bismarck, ND 58505-0250

**Administrative Disqualification Hearing (ADH) 400-19-137-25**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

**Administrative Disqualification Hearing (ADH) 400-19-137-25**

For specific information on Intentional Program Violation (IPV) Hearing Procedures, refer to Administrative Procedures Policy 448-01-35.

**Court Conviction 400-19-137-30**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

**Court Conviction 400-19-137-30**

Counties may refer individuals suspected of committing an Intentional Program Violation (IPV) to their state's attorney for prosecution. The county must confer with its legal representative to determine the types of cases that will be accepted for possible prosecution.

Suspected fraud violations occurring on Indian reservations should be referred to the state's attorney. If the state's attorney's office does not have jurisdiction over the matter, the case will be referred to the U.S.

Attorney's office that has jurisdiction on that reservation. If the state's attorney does not refer the matter to the U.S. Attorney's office, the county social service office should do so.

The county must not initiate an IPV against an individual for the same or related circumstances that have already been referred for prosecution.

If an individual is convicted through this procedure the county will receive a judgment.

Upon receipt of a judgment:

If the judgment includes a disqualification period, impose the disqualification following the TANF disqualification timeframes.

**Example:**

If a court conviction is received with a disqualification period included, the disqualification period imposed is:

- 12 months if it is a first disqualification,
- 24 months if it is a second disqualification,
- Permanently if it is a third disqualification.

**Example:**

If a court conviction is received and does not include a disqualification period, the disqualification period imposed is:

- 12 months if it is a first disqualification,
- 24 months if it is a second disqualification,
- Permanently if it is a third disqualification.

If the judgment does not include a disqualification period, the county must forward the following information to the Appeals Supervisor to process the judgment under the IPV provisions:

- Criminal Complaint;
- Judgment or Order; and
- A cover letter detailing the violation including the name, address, case number, client ID, and any prior disqualifications.

The Appeals Supervisor must then process the Findings and Order for the disqualification which is sent to the Executive Director for signature. Upon receipt of the signed Findings and Order, the county must impose the specific program disqualification time periods.

**Disqualification Time Frames 400-19-137-35**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

**Disqualification Time Frames 400-19-137-35**

~~Upon receipt of the hearing decision, the county shall impose the required penalty whether the case is currently open or closed.~~

~~Individuals who have committed an IPV will be disqualified from receiving TANF benefits for the following time periods:~~

- ~~• 12 months for the 1st offense.~~
- ~~• 24 months for the 2nd offense.~~
- ~~• Permanently for the 3rd or subsequent offense.~~

~~The start date of the disqualification period is determined by the Appeals Supervisor. Imposing the disqualification is required even if it means that~~

~~some individuals may not be affected by the disqualification (e.g. SSI recipient).~~

~~When a disqualification penalty has been imposed against an individual, the period of disqualification shall continue uninterrupted until completed. When an overpayment exists, regardless of the household's eligibility for benefits, the household shall continue to be responsible for repayment of the overpayment which resulted from this violation.~~

Individuals who have committed an Intentional Program Violation (IPV) will be disqualified from receiving benefits for the following time periods:

- 12 months for the 1st offense.
- 24 months for the 2nd offense.
- Permanently for the 3rd or subsequent offense.

#### **Action Upon Receipt of Signed Findings and Order 400-19-137-40**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

#### **Action Upon Receipt of Signed Findings and Order 400-19-137-40**

Review the decision signed by the Executive Director to determine if an Intentional Program Violation (IPV) was committed.

If an IPV was not committed the household remains responsible for any over issuance and the claim continues as a client error regardless of eligibility for benefits.

If an IPV was committed, the disqualification begins with the first month following the date the individual receives the signed IPV findings and order. When a disqualification has been imposed against an individual, the disqualification must continue uninterrupted until completed. The disqualification is imposed whether the case is currently open or closed.

As a result of the disqualification:

1. Remove the disqualified individual's financial needs;
2. Continue to count the income and assets of the disqualified individual when determining eligibility for the remaining household members, and

3. Continue to apply the income disregards to the disqualified individual's income when determining eligibility for the remaining household members.

The appropriate Notice of Disqualification must be sent to the household notifying the household that an individual is disqualified and/or assistance will be reduced or ended. The conviction and disqualification information and copies of supporting documents (including conviction information) must be recorded in the casefile. If a disqualified individual moves from one county to another, include the disqualification information in the case transfer information.

The individual convicted of an IPV is the only household member disqualified. Other household members may remain eligible. Continued eligibility for TANF requires that at least one member of the household retains TANF eligibility. Imposing the disqualification is required even if it means that some individuals may not be affected by the disqualification (e.g. SSI recipient). If it is learned through the Income Eligibility Verification System (IEVS) or any other source and later verified that a recipient received earned income during a previous month or months when TANF was received and the income had not been reported, the case must be reworked for the month(s); and if it is determined to be an IPV, the late penalty applies.

The rate of recovery for overpayments resulting from an IPV is 20%. Overpayments resulting from an IPV continue to be the household's responsibility for repayment regardless of the household's eligibility for benefits.

Overpayments are recovered through a reduction of the Total TANF Standard of Need including \$45 Out of Home allowance and special items of need.

When an overpayment exists, regardless of the household's eligibility for benefits, the household must continue to be responsible for repayment of the overpayment which resulted from this violation.

After a disqualification hearing or the individual waives the right to an administrative hearing, there are no further appeal procedures available through the Administrative Hearing Process. The determination of IPV

cannot be reversed by a subsequent hearing. The individual however is entitled to seek relief in a court of appropriate jurisdiction. The period of disqualification may be subject to stay or other action which would delay the imposition of the disqualification.

### **Fraudulent Statement or Representation of Residence**

#### **400-19-137-45**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

### **Fraudulent Statement or Representation of Residence**

#### **400-19-137-45**

Any individual convicted in federal or state court after July 1, 1997, of having made a fraudulent statement or representation with respect to their place of residence in order to receive TANF, Medicaid, SNAP or SSI simultaneously from two or more states shall be disqualified from TANF for a period of 10 years, effective the date of conviction. The individual must also be disqualified for an Intentional Program Violation (IPV). The disqualification for the IPV is 10 years even if it is the individual's first or second, and permanently, if it is the individual's third.

- If the court conviction does not include the period of disqualification, the TANF Eligibility Worker must forward the following information to the Appeals Supervisor to process the findings under the Intentional Program Violation (IPV) provisions:
  - Criminal Complaint;
  - Judgment or Order; and
  - A cover letter detailing the violation and providing the name, address, and Vision Case and Client ID # number. Inclusion of any prior disqualifications should also be noted.
- Upon receipt of the Findings and Order, signed by the Executive Director of the Department, the period of disqualification for the IPV will remain 10 years if it is the individual's first or second, and permanently, if it is the individual's third.

If an individual is not convicted in federal or state court, but has made a fraudulent statement or representation after July 1, 1997, with respect to

their place of residence in order to receive TANF simultaneously from two or more states, the 10 year penalty cannot be applied. However, the individual shall be referred for IPV. If it is the individual's first IPV, the disqualification penalty is 1 year, if it is the second IPV, the disqualification penalty shall be 2 years. If it is the individual's third IPV, the penalty is a permanent disqualification.

**Disqualification in Another State 400-19-137-50**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

**Disqualification in Another State 400-19-137-50**

A disqualification penalty imposed on an individual in another state shall be used in determining the appropriate disqualification penalty for an individual in North Dakota. A person who, on any basis, is found to have committed an IPV by a state administration, disqualification proceedings, or by a federal or state court must be subject to the penalties provided in N.D.A.C. 75.02.01.2.72(2) & (5) and the individual's needs may not be included in the TANF benefit.

1. If another state takes action against an individual and the individual is found guilty of fraud or an IPV, the TANF Eligibility Worker must impose the proper IPV disqualification in North Dakota, provided the TANF Eligibility Worker becomes aware of the action.
2. If the individual is under a disqualification for an IPV in another state when they move to North Dakota and the individual served a portion of the disqualification in the other state, the individual must serve the remainder of the penalty in North Dakota, provided the TANF Eligibility Worker is aware of the disqualification.
  - To accomplish this, the TANF Eligibility Worker must create a Disqualification in the automated computer system, with a type of 'IPV Out of State' and enter the disqualification period assigned by the other state.
3. If the individual has an IPV and served the disqualification period in another state before coming to North Dakota, the penalty must be entered into the automated computer system.

- To accomplish this, the TANF Eligibility Worker must create a Disqualification type of 'IPV Out of State (SV) and enter the appropriate number of completed Out of State IPV's in the automated computer system, provided the TANF Eligibility Worker is informed of this.

4. An individual disqualified permanently due to having 3 or more IPV's in another state continues to be disqualified in North Dakota.

- To accomplish this in the automated computer system, the TANF Eligibility Worker must create a Disqualification type of 'IPV Out of State(SV) and enter the appropriate number (3) of completed Out of State IPV's, provided the TANF Eligibility Worker is informed of this.

5. An individual disqualified for having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States continues to be disqualified in North Dakota, provided the TANF Eligibility Worker is informed of this.

- To accomplish this in the automated computer system, the TANF Eligibility Worker must create a Disqualification type of 'Dual Benefits Court and enter the start date. The system will default a 10-year period. The TANF Eligibility Worker will need to contact State TANF/JOBS policy staff to have the period updated to match the other state's disqualification period.

**Note:** All of this is predicated on the assumption that either the client or the other state agency informs North Dakota of the previous IPV or fraud action.

A disqualification imposed on an individual in another state must also be imposed in North Dakota. The county must obtain copies of court decisions, administrative disqualification hearing determinations, signed disqualification consent agreements or administrative disqualification hearing waivers in electronic or hard copy. If the county needs assistance in obtaining the verification, contact the State Policy Staff.

An individual who is found to have committed an Intentional Program Violation (IPV) by a state administration, disqualification proceedings, or by a federal or state court must be subject to the penalties provided in N.D.A.C. 75-02-01.2-72(2) & (5) and the individual's needs may not be included in the TANF benefit.

1. If another state takes action against an individual who has moved to North Dakota and the individual is found guilty of fraud or an Intentional Program Violation (IPV) in that state, the county must impose the proper IPV disqualification in North Dakota.
2. If the individual is under a disqualification for an IPV in another state when they move to North Dakota and the individual served a portion of the disqualification in the other state, the individual must serve the remainder of the penalty in North Dakota.
  - In these situations, the county must create a Disqualification in Vision, with a type of 'IPV – Out of State' and enter the disqualification period assigned by the other state.
3. If the individual has an IPV and served the disqualification period in another state before coming to North Dakota, the penalty must be entered into the automated computer system.
  - In these situations, the county must create a Disqualification type of 'IPV – Out of State (SV)' and enter the appropriate number of completed Out of State IPV's in Vision.
4. An individual disqualified permanently due to having three or more IPV's in another state continues to be disqualified in North Dakota.
  - In these situations, the county must create a Disqualification type of 'IPV – Out of State (SV)' and enter the appropriate number (3) of completed Out of State IPV's in Vision.
5. An individual disqualified for having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states continues to be disqualified in North Dakota.

- In these situations, the county must create a Disqualification type of 'Dual Benefits-Court' and enter the start date in Vision. The system will default a 10-year period. The county will need to contact State TANF/JOBS policy staff to have the period updated to match the other state's disqualification period.

**Subsequent IPV Action 400-19-137-55**

- This new section incorporates the standardized EAP Intentional Program Violation policy.

**Subsequent IPV Action 400-19-137-55**

A subsequent Intentional Program Violation (IPV) cannot be brought against an individual unless the violation took place after the date of the Executive Director's Findings and Order in the previous action.

**Example:**

If a decision for a first violation is dated May 17, but the second violation concerns unreported income for the month of December in the prior year, a second violation cannot be imposed because it took place prior to the decision in the first violation.

An IPV can be pursued if it involves two separate individuals and two separate violations, no matter when the violations occurred.

**Example:**

A decision for a violation is dated May 17 for the husband who is a household member. A second violation occurs due to unreported income for the month of December in the prior year for the wife. IPV can be pursued against the wife.

**Eligibility Factors for TANF Kinship Care 400-19-140-10**

- Added Kinship Care maintenance payment to what Kinship Care financial assistance consists of. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015.
- Clarified policy regarding when a caretaker relative may receive TANF Kinship Care and Foster Care payments in the same month for

the same child.

- The 'note' in this section has been removed and aligned as it is current TANF policy.

### **Eligibility Factors for TANF Kinship Care 400-19-140-10**

Kinship Care financial assistance consists of the TANF benefit, Kinship Care maintenance payment and TANF Kinship Care supportive services.

There must be a court order placing care, custody and control of a child with a County Social Services, Division of Juvenile Services (DJS), or with the Executive Director, Department of Human Services.

A child must be placed with a caretaker relative within the fifth degree of relationship and meet all TANF eligibility requirements. The caretaker relative may choose to be an eligible caretaker or may choose to be an ineligible caretaker. If the caretaker relative chooses to be an eligible caretaker, they must meet all TANF eligibility requirements and if eligible, would receive a TANF benefit.

All factors of TANF eligibility apply including but not limited to:

1. Up-Front eligibility requirements.
2. Child Support Enforcement requirements;
3. Income and asset considerations;
4. Monthly reporting requirements;
5. JOBS Program requirements, if the caretaker relative chooses to receive TANF;

The Kinship Care caretaker relative must physically reside with the child and must take reasonable steps to secure all earned rights benefits to which the child may be entitled to, and redirect all monies to which the child is eligible including but not limited to Social Security benefits (i.e. survivors benefits or disability benefits) or Veteran's benefits.

A child in receipt of Supplemental Security Income (SSI) is not eligible for TANF Kinship Care assistance.

The caretaker relative may not receive a TANF benefit with TANF Kinship Care supportive services and Foster Care payments for the same child for the same month.

The caretaker relative may not receive a TANF Kinship Care benefit with ~~TANF Kinship Care supportive services~~ and Foster Care payments for the

same child for the same month.

Exception: When the child resides with a caretaker relative whose foster care eligibility for the child has ended and the caretaker relative applies for TANF in the same month, eligibility for the child may begin the first date following the last day for which a foster care payment was made.

A caretaker relative may request their case be switched from Kinship Care to regular TANF or from regular TANF to Kinship Care effective with the future benefit month. However, in order for a case to be changed from regular TANF to Kinship Care, all of the Kinship Care requirements must be met. Refer to Section 400-19-140-05, Overview - TANF Kinship Care.

~~**Note:** Once the Regular TANF or Kinship Care benefit has been paid, the case cannot be switched from Kinship Care to regular TANF or from regular TANF to Kinship Care when reworking the paid benefit month.~~

Once the Regular TANF or Kinship Care benefit has been paid, the case cannot be switched from Kinship Care to regular TANF or from regular TANF to Kinship Care when reworking the paid benefit month.

To request TANF Kinship Care assistance, SFN 405, Application for Assistance or SFN 719, TANF Request for Benefits with a completed Month Report or Statement of Facts must be signed by the caretaker relative. Eligibility for TANF Kinship Care may be established on the date the county office receives the signed request or date of eligibility whichever is later.

### **TANF Kinship Care Maintenance Payment 400-19-140-25**

- New section has been added for the Kinship Care maintenance payment policy. This supersedes IM 5250 Kinship Care Benefit Increase which was effective August 1, 2015

### **TANF Kinship Care Maintenance Payment 400-19-140-25**

A Kinship Care maintenance payment will be added to the TANF Benefit for each TANF Kinship Care case regardless of household size. The Kinship Care maintenance payment is \$300 per month.

The Kinship Care maintenance payment will be prorated from the date of application or the date of eligibility, whichever is later.

**Child Care Expenses 400-19-145-30**

- Grammar correction made in the first paragraph.
- In the second paragraph, added the wording 'based on the age of the child' as clarification to defining the maximum amount of child care that can be allowed.
- The last sentence in the last paragraph has been removed as it is Child Care Assistance Program (CCAP) policy. CCAP policy can be found in Service Chapter 400-28.

**Child Care Expenses 400-19-145-30**

Child ~~care~~ expenses cannot be paid as a supportive service under Diversion. However, these expenses may be allowed as a disregard from earned income, or paid through the Child Care Assistance Program (CCAP).

If the client requests the child care expenses be allowed as a disregard from earned income, the deduction cannot exceed the maximum allowable under CCAP ~~for the~~ based on the age of the child and Provider Type of 'Center'.

If the client requests child care expenses be paid through CCAP, a CCAP application is required before payment may be made, and all CCAP rules apply ~~including licensing and registration requirements. Payment is allowed up to 100% of the charges, up to the maximum allowed based on the child's age and type of setting.~~

**Factors of Eligibility 400-19-150-10**

- In the third paragraph added clarification that the household must have countable income to determine the grant for Transition Assistance.

**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 reapply 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 Eligibility Worker 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.

### **Transition Assistance Supportive Services 400-19-150-25**

- In the first sentence of the first paragraph, a space has been added between the words 'Assistance' and 'Supportive'
- In the last sentence of the last paragraph, reference to CCAP manual has been changed from '26' to '28'.

### **Transition Assistance Supportive Services 400-19-150-25**

Transition Assistance Supportive Services for job retention and transportation will be paid prospectively. Available Transition Assistance Supportive Services consist of:

1. Job Retention – A monthly amount of \$200.00 will be paid unless the caretaker has a participation code of 'DD', 'DF' or 'DM'.  
**Note:** When the Stepparent's earned income results in eligibility for Transition Assistance, the Job Retention must be entered next to the natural or adoptive parent in the automated computer system.
2. Transportation – A transportation allowance of up to \$150.00 per month may be paid. The amount of the transportation allowance will be determined by the JOBS Employment Contractor. Only caretakers participating in the JOBS Program are eligible to receive the transportation allowance.

Individuals who are eligible for Transition Assistance and are participants of the Job Opportunity and Basic Skills (JOBS) Program are eligible to receive JOBS Supportive Services identified in section 400-19-65-15, Types of JOBS Supportive Services.

Effective with the Benefit Month of August 2011, child care expenses must be paid through the Child Care Assistance Program (CCAP), based on the rules of that program. (Refer to the Child Care Assistance Manual Chapter 400-28 26). Child care expenses will no longer be paid directly to recipients using a debit card.

### **Post-TANF Supportive Services 400-19-155**

- The last paragraph has been reworded for clarification.

### **Post-TANF Supportive Services 400-19-155**

Post-TANF supportive services may be provided to assist former TANF or Transition Assistance recipients to succeed in the workforce and thus avoid the need to receive further TANF benefits. These supportive services may be provided to eligible individuals for up to six (6) months following the closure of their TANF or Transition Assistance case regardless of the reason for closure, provided, the individual was participating or required to participate in the JOBS or Tribal NEW program in their last month of TANF or Transition eligibility. The six (6) month window of eligibility for Post-TANF supportive services begins on the first day of the first month following case closure.

During the six month period, benefits can be paid effective the month the household requests Post-TANF supportive services. Retroactive payments will not be made unless it is determined that the payment was not made due to an administrative error.

Tribal NEW does not determine eligibility for Post-TANF supportive services. Instead, determining eligibility for and issuing payment of Post-TANF supportive services is the responsibility of the TANF Eligibility Worker.

There are two supportive services available to former TANF recipients:

1. Post-TANF Transportation; and
2. Discretionary.

Former TANF recipients are eligible for Post-TANF supportive services if they:

1. Have at least one deprived child residing in the home; and
2. Reside in the state; and

3. Are engaged in paid employment or a combination of paid employment and any education/training; and
4. Have not reached their TANF Lifetime limit;
5. Were required to or participate in the JOBS program in the last month of eligibility for TANF or Transition; and
6. Are not currently disqualified due to an Intentional Program Violation (IPV).

**Note:** Ineligibility for Post-TANF supportive services will occur even if the disqualification occurs after the individual's TANF case has been closed. It is the status of the individual in the month in which the request for Post-TANF supportive services is made that determines the individual's eligibility for those payments.

The TANF Eligibility Worker or JOBS Employment Contractor may authorize the use of Post-TANF supportive services. When authorizing the use of these services, a reasonable effort must be made to determine if a former TANF recipient is eligible for Post-TANF supportive services. Reasonable efforts include asking the former TANF recipient if all six criteria are met.

The JOBS Employment Contractor or TANF Eligibility Worker must ensure the individual remains employed. When authorizing Discretionary supportive services, verification of expenses for which assistance is requested must be secured.

If the former TANF recipient is disqualified due to an IPV, the TANF Eligibility Worker should alert the JOBS Employment Contractor at the time of case closure or when an individual receives an IPV following case closure.

When a household has been determined ineligible for Post-TANF Supportive Services benefits that resulted in apparent eligibility for Post-TANF Supportive Services:

- If the household has not yet received any Post-TANF Supportive Services, the household is not eligible for Post-TANF.
- If the household already received Post-TANF Supportive Services, payments must cease effective the date ineligibility is determined. In all cases, notification must be sent to the household.

## **Assessment, Social Contract and Case Planning, 400-19-160**

- 400-19-160 - Reference to SFN 740 and SFN 501 have been removed as the forms are obsolete.

**Assessment, Social Contract and Case Planning 400-19-160**

Effective February 1, 2010, TANF Eligibility Workers are no longer required to complete a case assessment and develop a social contract. JOBS Employment Contractors are responsible to complete an in-depth assessment on each referred individual.

~~If a TANF Eligibility Worker chooses to, they may continue to complete a case assessment by utilizing SFN 740, Initial/Strength/Full Assessment or SFN 501, TANF Re-assessment. This is a self reporting process by the household, and the results are based on the household's responses.~~

**Note:** Both of the above forms are available as E-forms on the North Dakota website at <http://www.nd.gov/eforms/>

The TANF Eligibility Worker can continue to manually create non-mandatory services. The Referrals Window in the automated computer system will continue to display the mandatory services of JOBS and Child Support Enforcement, and the non-mandatory services created by the TANF Eligibility Worker.

**SFN 376, Drug-Related Felony/Fleeing Felon Review  
400-19-165-175**

- SFN 376, Drug-Related Felony/Fleeing Felon Review form has been added into Appendix section.

**SFN 376, Drug-Related Felony/Fleeing Felon Review  
400-19-165-175**

This form is used to determine if an individual is disqualified from participation in the TANF program due to Drug-Related Felony/Fleeing Felon Review.

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

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.