

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 400-19 Temporary Assistance for Needy Families. This manual letter also incorporates changes made with:

- IM 5294 Achieving a Better Life Experience (ABLE) Accounts
- IM 5300 Felony Drug Convictions
- IM 5303 TANF Electronic Payment Card
- IM 5309 Intentional Program Violation
- IM 5320 Intentional Program Violation Procedures
- IM 5321 IPV Policy
- IM 5329 Intentional Program Violation Updates
- Amended IM 5329 Intentional Program Violation Updates
- IM 5350 Children under the Care, Custody and Control of Tribal Agencies

Par. 2 Effective Date – Changes included in the manual letter are effective November 1, 2019. Changes in policy:

- 400-19-55-05-30 Exempt Assets.
  - Changed length of disqualification from 12 months to 9 months for transfers of \$3000.00 through \$4999.00.
  - Added 12-month disqualification for transfers of \$5000.00 or more.

**The following section has been repealed:**

- **Convicted Drug Felon 400-19-45-95-10**

### **Definitions 400-19-05**

1. 400-19-05 Definitions. This section incorporates IM 5300:

- Removed Drug Felon from the definitions of:
  - Child Only Cases
  - Disqualified Individual

### **Definitions 400-19-05**

**Child Only Case** - A case where the only eligible individuals are dependent children and the caretaker/relative is ineligible as a non-legally responsible caretaker (OU), or as a legally responsible caretaker due to being an SSI Recipient (SS), Disqualified Alien (DA), Disqualified Fleeing Felon/

Parole/Probation Violator/~~Drug Felon~~ (DD), or Disqualified Fraud (DF).

**Disqualified Individual** – An individual who is ineligible for TANF due to being determined a Disqualified Alien (DA), Disqualified Fleeing Felon/Parole/Probation Violator/~~Drug Felon~~ (DD), or Disqualified Fraud (DF), Disqualified - Child Support (DM), or Disqualified - JOBS Sanction (DI). The length of disqualification may vary depending on the type.

### **Administrative Requirements 400-19-15**

2. 400-19-15-40 Program Brochure. Added 'Family Violence Option' brochure as it must be provided to all TANF recipients.

### **Program Brochures 400-19-15-40**

All applicants for TANF must be provided the following program brochures:

- "TANF"
- "JOBS"
- "The Family Violence Option"
- "Supplemental Nutrition Assistance Program (SNAP) in North Dakota"
- "Medicaid"
- "North Dakota Family Planning Program"
- "ND Health Tracks"
- "Child Support - A Legal Obligation"
- "Emergency Services"
- "Civil Rights"
- "LIHEAP Home Heating Assistance"
- "Child Care Assistance Program"

- "TANF I & R"
- "WIC."

Information from all of the brochures listed above are included in the Application for Assistance Guidebook. Acknowledgment that the applicant received the program brochures is contained on the applicant's "Statement of Facts."

### **Monthly Reporting 400-19-25**

3. 400-19-25-05 General Statement. Expenses added in the first paragraph as income and expenses are monthly reported and retrospective budgeted.

#### **General Statement 400-19-25-05**

As a condition of continued eligibility, TANF households are required to submit a monthly report form effective with the first month income and expenses are is retrospectively budgeted.

The monthly report does not replace the applicant's or recipient's responsibility to report a change within 5 calendar days of learning of a change in circumstance that may affect eligibility or the amount of the TANF benefit.

The purpose of the monthly report is to gather information necessary to determine eligibility and amount of TANF benefits. A monthly report provides households with a systematic method for reporting income, expenses, household composition, and other relevant circumstances for the base and benefit months. Recipients must also report changes in other circumstances which the household expects to occur in the future benefit month which may affect continued eligibility.

**Example:** If January is the month in which the application is received, eligibility and benefits for January and February are based on prospective information obtained from the applicant and listed on the application. The first monthly report is required in February to verify January actual information. Since January had been authorized based

on prospective information, the January information is used to determine if January's benefit must be adjusted. The monthly report will also provide anticipated information for March upon which all factors of eligibility are determined prospectively, except income and expenses.

### **TANF Pay After Performance Requirements 400-19-40**

4. 400-19-40-05 Overview. Clarification added that Pay After Performance applies to each application submitted.

#### **Overview 400-19-40-05**

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

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

### **TANF Non-Financial Eligibility Factors 400-19-45**

5. 400-19-45-70-05 Overview. Added 'appropriate' before 'social service personnel' in the last sentence of this section.

#### **Overview 400-19-45-70-05**

In addition to being needy, a dependent child also must be shown to be deprived of both parental support and care. A dependent child is considered deprived of parental support and care when the child has at least one parent who is continually absent from the home, incapacitated, disabled, aged, or

deceased. The determination that a child has been deprived of parental support and care is made in relation to the child's natural or adoptive parent whether or not the parents were married to each other.

An alleged father who is not married to the child's mother and who is living in the home cannot be assumed to be the child's parent unless a "Voluntary Acknowledgment of Paternity (VPA)" form has been completed and filed with the Vital Records Division or paternity has been established in court.

**Note:** If the child is born out of wedlock, the VPA form is valid only if both the mother and alleged father sign the form.

When eligibility for the TANF benefit is based on the incapacity, disability, or age of one parent, the second parent, if living in the home, is eligible for TANF regardless of marital status.

TANF cannot be denied on the basis that conditions in the child's home are believed to be "unsuitable" for the child's care. Conditions thought by staff to jeopardize the child's best interests shall be brought promptly to the attention of appropriate social service personnel.

### **Apply for Earned Rights Benefits 400-19-45-85**

6. 400-19-45-85 Apply for Earned Rights Benefits. **North Dakota Administration Code added to this section.**

### **Apply for Earned Rights Benefits 400-19-45-85**

**(N.D.A.C. 75-02-01.44)**

All applicants and recipients must apply for any and all potential sources of income (i.e. Workmen's Compensation, Unemployment Benefits, Social Security Disability and Retirement Benefits) which might be available to the household, and to provide proof that such application has been made.

Applicants and recipients must comply with the requirements of the program to establish eligibility for and receive benefits.

Failure to apply for, comply with the requirements of the program to establish eligibility for, or refusal of receipt of earned rights benefits to which an individual is entitled shall result in ineligibility of the household containing the individual.

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.

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.

Railroad Benefits can include payments for sickness or accident, dependent or survivors' benefits, job insurance, retirement, and funeral expenses.

Veteran's pension or compensation, veteran's vocational rehabilitation subsistence payments and military allotments should be explored for potential earned rights benefits.

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

7. 400-19-45-95 Disqualification for Fleeing Felons, Probation/Parole Violators, Convicted Drug Felons and Misrepresentation of Residence 400-19-45-95. This section has been renamed 'Disqualification for Fleeing Felons, Probation/Parole Violators and Misrepresentation of Residence'.

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

8. 400-19-45-95-05. Fleeing Felons and Probation/Parole Violators. **This section incorporates IM 5300:**

- **Changed the title of SFN 376 to 'Fleeing Felon/Parole or Probation Violator Review'.**

### **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/Parole or Probation Violator 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.

9. 400-19-45-95-10 Convicted Drug Felon. This section incorporates IM 5300:

- Section has been repealed. North Dakota House Bill 1041 passed during the 2017 Legislative session eliminated TANF disqualification periods for individuals convicted of a Drug Felony after August 22, 1996. This was effective for applications and reviews received on or April 21, 2017.

**~~Convicted Drug Felon 400-19-45-95-10~~**

~~An individual convicted of a federal or state felony which occurred after August 22, 1996, involving the possession, use, or distribution of an illegal drug (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) and whose sentence is consistent with a felony conviction is ineligible to participate in the TANF Program for seven (7) years from the date of conviction. Action to deny or terminate TANF for the individual can be taken only if verification is obtained concerning such conviction. Only convictions overturned in a court of law may be removed with approval from Economic Assistance Policy Division.~~

**~~Note:~~** ~~This does not apply to alcohol related convictions.~~

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~~If an individual is convicted of a drug related felony in a local, state, or federal court, the following information must be sent to the Economic Assistance Policy Division for review on the SFN 376—Drug Related Felony Review form:~~

- ~~Indicate TANF Program~~
- ~~Eligibility Worker's Full Name and County Name~~
- ~~Individual's Date of Birth~~
- ~~Individual's Full Name, Including Middle Name~~
- ~~Individual's Case Number~~



- ~~Individual's Client ID Number~~
- ~~Individual's Gender~~
- ~~Application Date~~
- ~~Date Case Must be Processed~~
- ~~Copies of the Criminal Complaint and Judgment or Order which substantiates the individual's drug-related felony.~~

~~In order to determine whether an individual's conviction is disqualifying the court documents sent to the state office must include:~~

- ~~1. The date of the offense(s);~~
- ~~2. The sentence or judgment of the court; and~~
- ~~3. The nature of the offense(s).~~

~~This information is usually contained in the Criminal Complaint and Judgment document. However, the offense date is not always listed on the Criminal Complaint and Judgment.—~~

~~If the Criminal Complaint and Judgment document does not contain the offense date(s), please request a copy of the "Information" or "Criminal Information" document from the clerk of court where the felony drug conviction occurred and forward it to the Economic Assistance Policy Division. The "Information" or "Criminal Information" document may include the offense date(s).~~

~~The Economic Assistance Policy Division will review the information to determine if the conviction disqualifies the individual from the TANF Program. If an individual is disqualified, the Economic Assistance Policy Division will notify the Eligibility Worker of the seven (7) year disqualification period.~~

~~The earliest date an individual whose disqualification has reached the seven~~

~~(7) year period may regain eligibility in the benefit month following the month the seven (7) year period ends.~~

~~Convicted drug felons 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.~~

~~Individuals who have been disqualified from TANF due to a drug-related felony may regain eligibility if the felony drug conviction has been reduced to a misdemeanor. If an individual reports, or it is discovered, that a felony has been reduced to a misdemeanor, the eligibility worker must complete the SFN 376 with the required information and resubmit the Criminal Complaint and judgment documents to the Economic Assistance Policy Division.~~

~~Upon completion of the review by the Economic Assistance Policy Division, eligibility workers will receive a formal notification indicating if the individual continues to be disqualified. It is NOT up to the eligibility worker to monitor if an individual can regain eligibility. All drug-related felony convictions should be reviewed at application and annual review.~~

~~The earliest date an individual whose conviction has been reduced to a misdemeanor may regain eligibility is the benefit month following the month the client reports or the change is discovered. If the client regains eligibility, the eligibility worker will receive notification from the Economic Assistance Policy Division indicating the month for which the client has regained eligibility.~~

**Note:** ~~When creating a felony drug disqualification on the Disqualification Window in Vision, upon entering the conviction date, the disqualification start and end dates are determined by the system.~~

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

10. 400-19-50 Eligibility Rules Governing Participation (Codes). This section incorporates IM 5300:

- Removed Drug Felon in the sixth bullet.

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

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

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

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

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

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

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

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

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

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

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

- **Ineligible Individuals (OU):**

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

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

2. **Pay After Performance Caretakers (OU):** Caretakers who have children residing with them to whom they are related within the 5th degree, who are ineligible for their portion of the TANF grant for four months, beginning the month of application, as they are not meeting the Federal Work Requirements.

Pay After Performance Caretakers are included as members of the TANF household and their income and assets are considered when determining eligibility for remaining household member(s). These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive

disregard and work-related child/adult dependent care) and are also eligible to receive Supportive Services.

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

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

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

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

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

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

**~~Violators, and Convicted Drug Felons (DD):~~** Individuals charged or convicted of any felony who has left the jurisdiction of the charging authorities, ~~and~~ individuals determined by the court to have violated the terms of their parole or probation from a felony conviction, ~~and~~ individuals convicted of a federal or state felony involving the possession, use, or distribution of an illegal drug.

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

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

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

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

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

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

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

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

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

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

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

Eligible individuals are included in the full TANF Basic Standard of Need and their income and assets are considered when determining eligibility for the household. These individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment

incentive disregard and work-related child/adult dependent care). These individuals are eligible to receive Supportive Services if participating in the JOBS Program.

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

### **TANF Financial Eligibility Factors 400-19-55**

11. 400-19-55-05-30 Exempt Assets. This section incorporates IM 5294:

- Achieving a Better Life Experience (ABLE) added as an exempt asset.

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

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

1. Achieving a Better Life Experience (ABLE) accounts -- This includes the exclusion of any contributions to the ABLE account of the individual and any distributions for qualified disability expenses.

Since the funds in an ABLE account can only be withdrawn to be used for a 'qualified disability expense,' funds withdrawn from the account are also disregarded.

A transfer of funds into an ABLE Account is subject to Disqualifying Transfer.

2. ~~1-~~ **Agent Orange Settlement Program** -- Pursuant to Public Law 101-201, Agent Orange settlement payments are exempt.
3. ~~2-~~ **Basic Maintenance Items** – Basic maintenance items such as clothing, furniture, appliances, and personal effects.
4. ~~3-~~ **Burial Plots** -- A burial plot for each family member.
5. ~~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.



6. ~~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.
7. ~~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.
8. ~~7.~~ **Crime Victim Compensation** - Crime victim compensation is exempt.
9. ~~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.

10. ~~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.

11. ~~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.

12. ~~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.

13. ~~12.~~ **Income Tax Refunds** -- Federal or state income tax refunds are exempt for a period of 12 months from the month of their receipt.

14. ~~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.)

15. ~~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.

16. ~~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.

17. ~~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.)

18. ~~17.~~ **Loans** -- A loan from any source with written documentation verification that is subject to repayment.
19. ~~18.~~ **Minor Parents' Parents Assets** -- The assets of minor parents' parents shall be exempt in determining TANF eligibility.
20. ~~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.
21. ~~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.

22. ~~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.

23. ~~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.
24. ~~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.
25. ~~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.
26. ~~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.
27. ~~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.
28. ~~27.~~ **530 Coverdell Education Savings Accounts** - Trusts created to pay the education expenses of the designated beneficiary.

12. 400-19-55-05-35 Disqualifying Transfer of Assets. **This is new policy. This is change is being made to align with SNAP policy.**

- Changed length of disqualification from 12 months to 9 months for transfers of \$3000.00 through \$4999.00.
- Added 12-month disqualification for transfers of \$5000.00 or more.

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

The transfer of any property without adequate consideration is disqualifying if the transfer was for the purpose of becoming eligible or to remain eligible for TANF. The household's intent, lapse of time between such transfer, and the date of TANF application are among the factors which must be evaluated. The 3 month period prior to the date of application must be reviewed for the occurrence of a transfer of assets. On-going cases must be periodically reviewed for a disqualifying transfer of assets.

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

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

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

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

If the TANF household member who caused the household's ineligibility due to a disqualifying transfer leaves the household, the remaining household members are no longer subject to the disqualification period if the transferred

asset was owned solely by the departing household member. Effective the day following the day in which the individual left the TANF household, the disqualifying transfer will no longer affect the remaining household members.

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

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

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

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

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

13. 400-19-60-10 Types of Special Items of Need. This section incorporates IM 5300:

- Removed Drug Felon under housing allowance from this section.

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

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

Child restraint seats are available in many communities through hospitals, public health agencies, and civic organizations. In collaboration with many public health agencies, TANF will reimburse public health agencies for child restraints provided to TANF recipients.

The public health agencies must complete SFN 471, Vendor Payment (TANF), Authorization and Request for Payment of Goods and Services and send it to the TANF Eligibility Worker for authorization.

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

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

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

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

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

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

**Note:** Transportation, lodging and meals for individuals who must travel to a distant medical or rehabilitation facility can be paid through Medicaid, with prior approval. If the household fails to obtain prior approval, or if Medicaid denies the claim as the treatment can be obtained within the state, the cost cannot be paid under Essential Services.

Essential Services:

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

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

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

Verification of completion of high school or GED is required.



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

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

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

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

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

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

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

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

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

1. Who reside together; and
2. Who are related within the 5th degree by either birth, marriage, or adoption; and
3. Whose needs are included in a TANF benefit (IN) or (OH), or if their needs are not included in the TANF benefit, because the individual is:
  - a) In receipt of Supplemental Security Income (SSI) benefits (SS);
  - b) An alien who does not meet citizen and alienage requirements (DA - Disqualified Alien);
  - c. Ineligible for TANF benefits due to the imposition of a sanction (DI - Disqualified JOBS) or (DM -Disqualified Child Support);
  - d. Ineligible for TANF benefit due to being disqualified (DF - Disqualified Fraud); ~~DD - Disqualified Drug~~
  - e. Subject to Pay After Performance requirements;
  - f. A stepparent (ST) or a legal dependent of a stepparent;

- g. A minor parent's parents (MP) or a legal dependent of the minor parent's parents.
- h. An individual who does not meet the TANF eligibility requirements (e.g. age, citizenship, deprivation, etc.), but is a legal dependent or a legally responsible caretaker of a member of the TANF family (does not include roomers or boarders).

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

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

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

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

All individuals residing together in the household must be members of the TANF family and the TANF Family must be solely responsible for housing costs in order to be eligible for the \$50 Housing Allowance. If

anyone other than a member of the TANF family as defined above reside in the household, the TANF family is not considered to have sole responsibility for all housing costs and therefore, is not eligible for the \$50 Housing Allowance.

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

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

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

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

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

1. If the daughter is a legal dependent, the family would be eligible for the additional \$50 Housing Allowance even if the daughter contributes towards the housing costs.
2. If the daughter is not a legal dependent the family would not be eligible for the additional \$50 Housing Allowance regardless of whether she contributes towards the housing

costs; this since she is not considered a member of the family.

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

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

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

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

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

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

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

1. The amount of the rental expense;
  2. Whether the rent is actually paid when due, provided the individual remains responsible for the entire amount;
  3. The individual is responsible to pay shelter expenses other than rent (e.g. upkeep of the home, utilities, etc.).
7. **Special Projects** - In order to support county demonstration projects, two Special Items of Need are available – Special Projects Incentives and Special Projects Work Subsidies. These special items of need are utilized only with approval from State TANF/JOBES Policy staff.
8. **Unforeseen Circumstances** - There are two different Special Items of Need that are defined as Unforeseen Circumstances. These are:
1. Catastrophic Events (N.D.A.C. 75-02-01.2-65) - In the event of a disaster involving members of the TANF household, the JOBES Employment Contractor or TANF Eligibility Worker, after exploring the availability of property insurance and community resources, shall authorize the replacement of clothing, furniture, household equipment, and other needed supplies at a level comparable to that maintained by the recipient at the time of the fire, flood, tornado, or other catastrophic event. Community organizations often provide assistance to victims of disasters. The JOBES Employment Contractor or TANF Eligibility Worker should coordinate assistance with local resources.
- Payment for the replaced of these items shall be authorized and paid by using SFN 471, Vendor Payment (TANF), Authorization and Request for Payment of Goods and Services.
- b. Unforeseen Circumstances - The unforeseen circumstances payment is to be used to reimburse a recipient for a payment made in situations that were beyond the individual's control.

State office approval is required before making an unforeseen circumstances payment.

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

### **Job Opportunity and Basic Skills (JOBS) Program 400-19-75**

14. 400-19-75-10-20 None-Exempt (Work Eligible) Individuals. This section incorporates IM 5300:

- Drug Felon has been removed from #3.

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

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

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

- A caretaker who is disqualified for non-compliance with the Child Support Division (DM)

**NOTE:** A caretaker is not eligible to participate in the JOBS Program if their participation code is 'DA' 'SS', 'ST', 'MP' or 'OU', except those who are 'OU' as a Pay After Performance caretaker.

4. Any child, age 16 and older, who is not attending school or who is pursuing a GED.

15. 400-19-75-20-05 Good Cause – Family Violence Option. **State Exemption Determination Team (SEDt) added prior to SEDt in second to the last paragraph.**

#### **Good Cause - Family Violence Option 400-19-75-20-05**

The provisions of the family violence option contained in the Personal Responsibility and Work Opportunity Act of 1996 and N.D.C.C. § 50-09-31, provides that:

1. All TANF applicants and recipients must be informed of the family violence option; and
2. All applicants must be screened to determine if they are past or present victims of family violence or are at risk of further family violence; and
3. Individuals with positive screening results must be referred to a local family violence, sexual assault organization (See DN 1332, Family Violence Option brochure, for a listing of available family violence resource centers) for safety planning and supportive services; and

**Note:** If the individual referred to a local family violence, sexual assault organization for safety planning and supportive services refuses to comply with the referral, the TANF Eligibility Worker must document that a referral was offered and declined.

4. Determine if good cause exists to waive participation in the JOBS program.



- A referral to JOBS or Tribal NEW must be made if it is determined that participation will not place the individual and their family at risk of family violence. However, the individual may be placed under a Modified Employability Plan. (See Section 400-19-75-40-40-05, Modified Employability Plans.)
- Good cause must be granted if it is determined that participation is likely to place the individual and their family at risk of further family violence.

**Note:** Good cause will continue only until such time as it is determined that participation will not place the individual and their family at risk of further family violence.

The TANF Eligibility Worker is ultimately responsible to make a good cause determination and should do so with assistance and input from the applicant/recipient and staff from the local family violence resource center or other service providers, as appropriate.

In the event that the TANF Eligibility Worker is unable to determine whether a victim of family violence should be referred or not referred to the JOBS program, the TANF Eligibility Worker may forward all pertinent documentation to the [State Exemption Determination Team \(SED\)](#) for assistance.

**Note:** Cases involving potential family violence are not to be referred to the State Review team.

Refer to DN 1332, 'The Family Violence Option' brochure for additional information on the Family Violence Option as it relates to good cause for non-participation in the JOBS or Tribal NEW.

### **TANF Budgeting 400-19-105**

16. 400-19-105-40-05 Legally Responsible Relatives who are Ineligible Caretakers.

This section incorporates IM 5300:

- Drug Felon removed from this section.

**Legally Responsible Relatives who are Ineligible Caretakers 400-19-105-40-05**

A child may reside with a legally responsible relative whose needs are excluded from the TANF benefit because the individual is:

1. An ineligible Alien;
2. Disqualified for fraud due to an intentional program violation,
3. Disqualified for being a fleeing felon;
- ~~4. Disqualified for having a drug felony;~~
5. **4.** Disqualified due to parole or probation violation;
- ~~6.~~ **5.** Disqualified due to non-participation in the JOBS Program; or
- ~~7.~~ **6.** Disqualified for non-cooperation with the Child Support Division,

The TANF benefit is intended to meet the needs of all eligible individuals in the TANF household. In the instance of an individual whose needs are deleted from the unit for one of these reasons, that individual's income and assets must be considered when determining eligibility for the remaining eligible household members. The income disregards and employment incentives are allowed for the income of the individual who has been disqualified.

17. 400-19-105-40-15 SSI Recipient who is a Caretaker. **Added 'or presumptive SSI' in the first sentence for clarification. This is not new policy.**

**SSI Recipient who is a Caretaker 400-19-105-40-15**

A caretaker who is in receipt of SSI or presumptive SSI is an ineligible caretaker who cannot have their needs met by TANF. Their income and assets are not considered in the determination of the household's eligibility or benefits.

18. 400-19-105-40-20 Budgeting of Newborn **Added clarification receipt of any required verification refers to what is provided by the TANF filing unit in the second paragraph. This is not new policy.**

### **Budgeting of Newborn 400-19-105-40-20**

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

1. A written request is received within 10 days of the birth, and
2. The SSN or application for SSN, verification of birth/relationship, and identity are received within 30 days of the written request. In addition, the signed SFN 403, notice of Right to Claim 'Good Cause'.

A written request is defined as:

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

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

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

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

for June and July to meet the financial needs of the baby.

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

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

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

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

**Example #2:** A baby was born on June 15th. The household provides a written request to add the baby on June 20th. The required verifications are not provided until July 24th. Since the verifications were not provided within 30 days from the written request, the baby is added effective July 24th and the benefit for the entire household will be prorated from July 24th.

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

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

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

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

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

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

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

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

- The baby is not eligible to receive TANF for February as the birth was not reported timely.
- The baby is added effective March 10th because the birth was not reported timely and both mom and the baby's needs are prorated from March 10th.

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

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

**Example:** A baby is born on February 25th, and the birth is not

reported until April 5th and all verifications are received within the 30 days from the date of the written request.

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

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

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

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

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

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

If the birth of the baby is not reported within 10 days following the expected date of birth of the unborn, an advance (10-day) notice must be sent to the

household to close the case since the newborn is a mandatory household member.

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

19. 400-19-110-10 Determining the Standard of Need in Various Circumstances This section incorporates IM 5300:

- Removed Drug Felon from #6 in second paragraph and #5 in the third paragraph.

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

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

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

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

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

children, the TANF Basic Standard of Need is based on one caretaker with zero children.

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

3. If the only legally responsible caretaker is disqualified for reasons of non-compliance with JOBS or Child Support (DI or DM) the TANF Basic Standard of Need is based on one caretaker and the number of eligible children.
4. If a child is determined to be a Benefit Cap child, even though that child is not eligible to receive a TANF benefit, the child is included in the TANF Basic Standard of Need. The TANF Basic Standard of Need is based on one caretaker, the Benefit Cap child, and any other eligible children.
5. If the only legally responsible caretaker is subject to the Pay After Performance (PAP) requirements, the TANF Basic Standard of Need is based on one caretaker and the number of eligible children.
6. 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 Payment Process 400-19-120**

20. 400-19-120-25 Unrestricted Payment of TANF Benefits. This section incorporates IM 5303:

- Changes in processes identified which are due to the change in TANF electronic payment card vendor.

### **Unrestricted Payment of TANF Benefits 400-19-120-25**

The unrestricted money payment is the basic method for providing assistance to eligible households. Money payments are payments made to the primary individual (PI) through electronic funds transfer or by check through a protective payee, and are issued at regular intervals with no restrictions as to the use of the funds.

**Note:** The Primary Individual must have a Social Security Number (SSN) in order for TANF benefits to be issued through use of the electronic funds transfer. For households where the PI does not have an SSN, payment of the TANF benefits must be issued through the protective payee process until the PI receives their SSN.

Once the SSN is received, enter the SSN and remove the Protective Payee data. That information will then be sent to the electronic card payment vendor who will set up an account and issue the household a TANF electronic payment card.

### **Electronic Payment Card**

The North Dakota Department of Human Services has determined that issuing ~~Visa-branded~~ prepaid debit cards enhances self-sufficiency by expanding TANF clients' knowledge of banking systems, avoidance of check loss, and promoting cost-effectiveness as compared to the cost of printing checks. Debit cards provide a fast, secure, and efficient method of distributing TANF benefits while ensuring recipients a convenient and safe way to access their money.

The electronic payment card is a prepaid debit card that replaced the TANF check process. The exception to the prepaid debit card is protective payee situations. Protective payee cases will continue to receive TANF benefits by check.

Upon authorization of a TANF initial or supplemental benefit or an

underpayment, two processes occur.

1. A demographic file of each new recipient is transmitted to the electronic card payment vendor in the evening of each work day. Upon receipt of the demographic file, the electronic card payment vendor prints and ~~sends a Visa~~ **mails the prepaid** debit card ~~to be delivered within 3 to 5 U.S. Mail days from the date the case is authorized (for new cases) or when a new card is requested by the payee. The total time, frame for a new applicant's card or a requested card replacement to be received is 7 to 10 calendar days from transmission of card account information or request for a replacement card to receipt of card by recipient averages 5 business (U.S. Mail) days.~~
2. A benefit file of each recipient who is due benefits is transmitted to the Bank of North Dakota. The following day, the Bank of North Dakota sends the funds to the electronic card payment vendor electronically and the electronic card payment vendor deposits the funds to the debit card. Funds are transferred into accounts on all days except Saturdays, Sundays, and federal holidays. Funds will be available to the recipient approximately 24 hours after the electronic card payment vendor receives them.

Upon authorization of a TANF benefit for ongoing cases for regular issuance, funds are transferred the second to the last working day of the month and are available the first working day of each month.

Electronic payment cards will contain the name of the primary individual in the household. To distinguish the card from other program cards, the TANF card displays a ~~wagon wheel~~ **field with a tree**.

Closing a TANF case does not invalidate the electronic payment card and the funds remain available.

TANF households receive information on the use of the card, fees related to the card and privacy information upon receipt of the card from the electronic card payment vendor.

Payment Corrections

When a TANF household returns a TANF benefit or the family received a child support payment that should have been retained, the following steps must be completed to correct the payment:

1. The card holder cashes out the Electronic Payment Card.
2. The card holder returns the funds to the county social service office by cash, check, or money order.
3. The TANF Eligibility Worker establishes an overpayment for the months the TANF household is returning the benefit received.

**Note:** If the case remains open, State TANF Policy must be contacted prior to setting up a recoupment plan.

4. The county social service office will complete SFN 827, Credit Form, and send a check or money order to the North Dakota Department of Human Services Fiscal Administration for processing.
5. The North Dakota Department of Human Services Fiscal Administration will apply the funds to the overpayment.

**Note:** A TANF month established as an overpayment remains a TANF count month for the lifetime limit.

Returning a TANF benefit does not guarantee the family will receive child support payments.

**Overpayments and Underpayments 400-19-130**

21. 400-19-130-15 Obtaining Verification of Unreported Information  
Housekeeping, replaced 400-19-135 with 400-19-137 and added (IPV)  
behind Intentional Program Violation in the second note under #4.

**Obtaining Verification of Unreported Information 400-19-130-15**

In instances where the household has failed to provide information that is

necessary to determine eligibility, the following process may be used:

1. When unreported information is received, regardless of the source, the household must be sent notification requesting verification of the questionable information.

**Note:** Requested verification may include, but is not limited to, members of the household, place of residence, when income started and ended, whether the income continues, the owner of the asset, the current value of the asset or if the information is in error.

If the household fails to respond to the appropriate notice within 30 days, an advance (10-day) notice must be sent to the household advising the household their case will be closed. The verification process must continue and the TANF Eligibility Worker must contact the source to verify the information.

2. If the verification cannot be obtained from the household, send a letter to the source requesting the verification and include a Release of Information.

**Note:** Release of Information forms include SFN 970, Multi-Agency Authorization to Disclose Information, SFN 1059, Authorization to Disclose Information. A Release of Information is also included on the SFN 405, Application for Assistance, SFN 719, TANF Request for Benefits, and the Statement of Facts.

3. If the information was revealed by IEVS and verification from the source cannot be obtained:

Income:

1. For earned income, use the quarterly wage match and divide that figure by three to determine the monthly amount of income to use.
2. For unearned income, divide that figure by the number of months in the 'Reported Period' of the IEVS alert to determine the monthly amount of income to use.

Assets:

1. If the total of the unreported and reported assets are less than the TANF asset limit, no further action is required.
2. If the total of the unreported and reported assets are more than the TANF asset limit, the assets must be counted for each month of the 'Reported Period' of the IEVS alert, which will result in a complete overpayment for each month.
4. If the income information was revealed by PARIS and verification from the source cannot be obtained:
  - a. For earned and unearned income:
    - i. If the monthly amount of the benefit is listed in the alert, use that amount.
    - ii. If the monthly amount of the benefit is not listed in the alert, a monthly amount will need to be determined, by dividing the amount by the number of months the payment represents

Once verification of the unreported income and/or assets is received, or the calculation completed as indicated in #3 or #4 above, the case must be reworked for the affected month(s) and overpayments established.

**Note:** The process of determining monthly income or assets defined in #3 or #4 above can only be used when the source is IEVS or PARIS.

If a client does not cooperate by providing actual information or the verification cannot be obtained through other sources, the TANF Eligibility Worker must use the best estimate or the best information available to determine the amount of the incorrect payment.

An overpayment is a benefit which a household received that exceeds the amount for which they are eligible. The TANF Eligibility Worker must promptly take all reasonable and practical steps to correct all overpayments.

**Note:** Anytime an overpayment is discovered, a determination must be made whether or not to pursue an Intentional Program Violation. (See Section ~~400-19-135-10~~ 400-19-137, Intentional Program Violation (IPV).)

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.

If the overpayment is a result of unreported earned income or earnings that were not reported timely, the individual loses all earned income disregards when reprocessing benefit months affected by the unreported income. The TANF Eligibility Worker must select the 'Apply TANF Loss of Disregard' indicator on the Income Window in the automated computer system to apply the loss of disregards.

**Note:** The earned income disregards consist of the 27% (or \$180 whichever is greater) deduction, the time-limited percentage (TLP) deduction, and all job-related expenses (e.g. child care).

With the exception of JOBS Transportation, overpayments must be established for all JOBS Supportive Services or Special Items of Need.

Once the benefit has been recalculated and authorized, the TANF Eligibility Worker must create the Recoupment Plan by:

1. Entering the appropriate 'Error Code';
2. Selecting the Recoupment Method ('Monthly Amount' or 'Percent');
3. Authorizing the Recoupment Plan; and
4. Sending the Notification of Overpayment notice.

**Intentional Program Violation (IPV) 400-19-137**

22. 400-19-137-10 Evidence Evaluation. This section incorporates IM 5329 and Amended IM 5329:

- IPV's must be reviewed by supervisor, director, or a regional representative prior to being pursued.

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

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 **must** 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.

If the review results in the decision to proceed with the IPV process, the supervisor, director, or regional representative who reviewed the evidence must review, sign and date the SFN 1940- TANF/SNAP/CCAP Notice of Suspected IPV to ensure the form is completed accurately prior to meeting with the individual.

**23. 400-19-137-15 Initiating an Intentional Program Violation. This section incorporates IM 5320:**

- Added policy to include return date of 10 days on the SFN 1940, clarified signatures needed when Waiver A or Waiver B of SFN 1940 and formatting changes made to SFN 1940, IM 5329 and Amended IM 5329.
- IPV's must be reviewed by supervisor, director, or a regional representative prior to be pursued.

**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. Indicate the length of the disqualification. ~~The form must be signed by the county (an electronic signature is acceptable).~~
- h. Indicate the date the SFN1940 must be signed and returned to avoid the hearing. The return date must be 10 days from the date of the IPV meeting the county is required to schedule.

- i. The form must be **signed** by the county eligibility worker (an electronic signature is acceptable).
- j. The form must be **signed** by a supervisor, director or regional representative.

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.

**24. 400-19-137-20 Scheduled Intentional Program Violation Meeting. This section incorporates:**

**IM 5309:**

- Removed policy that Legal Advisory Unit issues signed findings and order when Waiver A or Waiver B are signed or when there is a court conviction.

**IM 5320:**

- Added policy to include return date of 10 days on the SFN 1940, clarified signatures needed when Waiver A or Waiver B of SFN 1940 and formatting changes made to SFN 1940.

**IM 54321:**

- Removed policy requiring cover letter when Waiver B of SFN 1940 was signed.

**IM 5329 and Amended IM 5329:**

- Added policy IPV's must be reviewed by and SFN 1940 must include signature of supervisor, director, or a regional representative.

**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 continue to be pursued. ~~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 or the correspondence notice is returned as undeliverable or no forwarding address, within three days after the meeting, the county must mail a copy of the SFN 1940 to the individual and 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 is not the caretaker relative, the caretaker must also sign the form.

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 along with a letter detailing the violation and copies of all evidence, 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.~~
- The SFN 1940 must be sent to the Appeals Supervisor immediately after the individual signs the SFN 1940.
- The SFN 1940 will be reviewed by the Appeals Supervisor and state program staff.
- The State Office will notify the county of the date the disqualification will be imposed and the length of the disqualification.

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

- The SFN 1940 must be sent to the Appeals Supervisor within three days after the meeting is held.

25. 400-19-137-30 Court Conviction. This section incorporates IM 5309:

- Removed policy that Legal Advisory Unit issues signed findings and order when Waiver A or Waiver B are signed or when there is a court conviction.

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

Counties may refer individuals suspected of committing an Intentional

Program Violation (IPV) to their states 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.~~

26. 400-19-137-45 Fraudulent Statement or Representation of Residence.

Information previously under Misrepresentation of Residence 400-19-45-95-15 relating to fraudulent statement or representation of residence has been moved to this section. This is not a change in policy.

#### **Fraudulent Statement or Representation of Residence 400-19-137-45**

Part A, Section 408 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 implemented a provision which prohibits a State to which a grant is made under section 403 from using any part of the grant to provide cash assistance to 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.

**Note:** This provision does not apply with respect to a conviction of an



individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

- 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.

### **TANF Kinship Care 400-19-140**

27. 400-19-140-05 Overview. This section incorporates IM 5350:
- TANF Kinship Care has been expanded to include the option of placement for children who are in the care, custody and control of a Tribal Agency.

**Overview 400-19-140-05**

TANF Kinship Care was implemented in North Dakota on February 1, 2005. This program provides enhanced funding and services in order to expand the options for placement of children who are in the care, custody, and control of County Social Services, Division of Juvenile Services (DJS), ~~or~~ Executive Director, Department of Human Services, or Tribal Agency. As an alternative to Foster Care, children may now be placed with relatives who are within the 5th degree of relationship to the child. TANF Kinship Care can be provided without having to meet all of the requirements of the Foster Care Program. However, Kinship care rules follow many of the same rules as foster care.

In order to be eligible for TANF Kinship Care, the County Social Services, Division of Juvenile Services (DJS), ~~or~~ Executive Director, Department of Human Services or Tribal Agency within North Dakota must have care, custody, and control. If an agency in another state has care, custody and control, the out of state agency has financial responsibility for the child they place. The out of state agency must follow the Interstate Compact process when placing a child in North Dakota with relatives.

Before a child can be placed in TANF Kinship Care the agency having care, custody, and control of the child must complete SFN 423, Kinship Placement, SFN 424, Kinship Care Agreement, SFN 426, Kinship Care Study, and a child abuse and neglect background check of the household members where the child will be placed. A criminal background check must be completed within 90 days of placement along with other investigations as the department may determine necessary.

**Note:** The Foster Care Administrative Rules at 75-03-14 regarding background checks apply to Kinship Care.

Once the SFN 423, Kinship Placement, SFN 424, Kinship Care Agreement, SFN 426, Kinship Care Study, and a child abuse and neglect background check of the household members where the child will be placed have been completed, if all other eligibility criteria are met, the case can be processed as Kinship Care as of the date the signed application is received in the county agency or the date the household becomes eligible for TANF/Kinship Care, whichever is later.

28. 400-19-140-10 Eligibility Factors for TANF Kinship Care. This section incorporates IM 5350:

- TANF Kinship Care has been expanded to include the option of placement for children who are in the care, custody and control of a Tribal Agency.

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

TANF 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 or Tribal Agency.

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 Division 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 Kinship Care benefit 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.

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.

29. **400-19-140-15 Denial or Closure of Kinship Care.** Added closing reason of when a child leaves the home or is no longer eligible and there is no other eligible Kinship Care child(ren) in the home. This section incorporates IM 5350:
- TANF Kinship Care has been expanded to include the option of placement for children who are in the care, custody and control of a Tribal Agency.

### **Denial or Closure of TANF Kinship Care 400-19-140-15**

TANF Kinship Care applications shall be denied or cases shall be closed when:

1. The Social Worker recommends, on SFN 426, Kinship Care Study, the kinship care placement not be approved, but the children remain in the home.

**Note:** If all factors of eligibility are met, the application would not be denied or the case closed as the family may receive regular TANF benefits.

2. The results of the Fingerprint Based Criminal Background Check do not allow eligibility under TANF Kinship Care.

**Note:** If all factors of eligibility are met, the application would not be denied or the case closed as the family may receive regular TANF benefits.

3. When the County Social Services, DJS, ~~or~~ the Executive Director, Department of Human Services or Tribal Agency no longer has care, custody and control of the child.

**Note:** If all factors of eligibility are met, the application would not be denied or the case closed as the family may receive regular TANF benefits.

4. The caretaker adopts the child. The household will no longer be eligible for Kinship Care Assistance as of the last day of the month the adoption becomes final.

**Note:** If all factors of eligibility are met, the application would not be denied or the case closed as the family may receive regular TANF benefits.

5. The household fails to comply with TANF program requirements.

6. When a child leaves the home or is no longer eligible for Kinship Care and there is no other eligible Kinship Care child(ren) or TANF child(ren) in the home.

When a TANF Kinship Care case that included the same children has been closed and reopens within 6 months of the closing, a new SFN 423, Kinship Care Placement or SFN 426, Kinship Care Study are not required unless circumstances have changed within the household such as additional household members. All other required forms and background checks must be completed.

When a TANF Kinship Care case that included the same children has been closed for a full calendar month or more, upon reapplication the fingerprint based criminal background check and the child abuse and neglect background check must be redone.

**Note:** If a new adult moves into the home of an 'ongoing' Kinship Care placement, a fingerprint based criminal background check and child abuse and neglect background check must be completed on that new adult.

30. 400-19-140-20 TANF Kinship Care Supportive Services. Add clarification in #6 that mileage for transportation costs for a parent to visit a Kinship Care child is allowable with reimbursement through the TANF Vendor Payment Process.

### **TANF Kinship Care Supportive Services 400-19-140-20**

Supportive services may provide reimbursements within the limits established by the department under the Foster Care program. Any approved supportive services reimbursement will be paid retroactively and will require proof of costs incurred. Eligibility for TANF Kinship Care supportive services is the date of application or the date of eligibility whichever is later.

Once Kinship Care Study, Child Abuse and Neglect Background Check, Kinship Placement, and Kinship Care Agreement are completed, supportive services can be paid and continue to be paid until the 90th day, when results of the Criminal Background Check are required. In order for supportive services to continue beyond the 90th day, the Social Worker must provide verification of a successful Criminal Background Check on the adult with whom the child is

placed. A successful Criminal Background Check may include confirmation of a criminal background; however, the offense and date of conviction may not warrant denial of a kinship care placement. Payment of supportive services will be prohibited beyond the 90th day if the TANF Eligibility Worker has not received the results of the Criminal Background Check or received confirmation that the adult with whom the child was placed has a criminal background.

TANF Kinship Care supportive services provide reimbursement for:

1. Child Care - Child care may be reimbursed to the caretaker as a TANF Kinship Care supportive service or as an expense from earned income. Effective with the benefit month of August 2011, there is no maximum on the amount of child care that can be reimbursed or allowed as an expense, provided the costs are reasonable and comparable to the market rate for the area.
1. Reimbursement is available for the caretakers paid employment, a combination of paid employment and education/training, or work search where care is necessary unless the spouse of the caretaker, the child's biological or adoptive parent, or an individual (loco parentis) acting in the place of a child's parent resides in the home and is available to provide the child care.
2. The child care provider must be a licensed, certified, registered or an approved relative provider unless the TANF Eligibility Worker and Social Worker determine conditions prevent care from being provided outside the home or verified barriers prevent child care arrangements outside the home.
3. The Kinship Care child to whom care is provided must be younger than 13 years of age. (Requests for reimbursement for 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).

Payment of Child Care expenses is issued through the automated computer system as a TANF benefit and not through the Child Care Assistance Program.

2. Clothing Allowance Reimbursement - Initial and Special:

1. Initial Clothing Allowance - During the first five months after the child enters a TANF Kinship Care arrangement, the child's clothing needs can be met with an initial clothing allowance, if needed. The initial clothing allowance must be requested and prior approval received. A list of clothing purchases and receipts must be submitted to the county for reimbursement. Approval for the initial clothing allowance should be included in the permanency planning document. The system limits the amount a payment may be made based on the age of a child but does not keep track of the five month period. Tracking the five month period is a manual process and should be kept in the TANF Kinship Care casefile.

**Note:** Once a child receives the initial clothing allowance, they should not receive it again while residing within the same TANF Kinship Care home. While it is expected that clothing purchased and reimbursed by Kinship Care follows the child, an additional allowance may be authorized if the child moves to the home of a new caretaker/relative.

Initial Clothing Allowance rates:

- Children ages 0 – 4 years of age \$400 maximum per year per child.
  - Children ages 5 – 12 years of age \$400 maximum per year per child.
  - Children ages 13 – 18 or over 18\* years of age \$400 maximum per year per child.
- b. Special Clothing Allowance - A special clothing allowance (should the need arise) may be authorized to replace clothing lost in a fire, flood, theft, or other disasters, or for sudden spurts of growth. The special clothing allowance rate is for emergency and extraordinary circumstances and should rarely be used in meeting the needs of the child. The supportive service is not an entitlement, but an exception.

Special Clothing Allowance rates:

- c. Children ages 0 – 4 years of age \$250 maximum per year per child.



- d. Children ages 5 – 12 years of age \$325 maximum per year per child.
- e. Children ages 13 – 18 or over 18\* years of age \$400 maximum per year per child.

\*over age 18 – a child who is a fulltime student in a secondary or a vocational or a technical school that is equivalent to secondary school, before the end of the calendar month in which the student attains age 19, the student may reasonably be expected to complete the program of such school.

- c. Emergency Needs - Payment for emergency needs may be reimbursed to meet expenses for which non-payment would threaten the placement as determined by the TANF Eligibility Worker and Social Worker, and cannot exceed \$500. The \$500 is a one-time option that may be reimbursed in one payment or several payments not to exceed a total of \$500. Reimbursement for miscellaneous expenses will be allowed only if the Kinship Care caretaker requested and received specific approval from the TANF Eligibility Worker and Social Worker prior to the services being provided. Some examples of items that may qualify in this category are a bed, bedding, crib, highchair, damage by a child in Kinship Care placement, etc.
- d. Legal Fees - Legal fees incurred by the caretaker relative necessary to obtain legal guardianship of the TANF Kinship Care child can be paid under supportive services. Funds designated for this purpose, are currently administered by NDDHS Children and Family Services (CFS) and CFS is first payer before TANF Kinship Care. Reimbursement for legal fees may be allowed only if the caretaker relative requested and received specific approval from the TANF Eligibility Worker and Social Worker prior to the services being provided. TANF Kinship Care supportive services are payer of last resort for these expenses. Reimbursement may not exceed \$700. Normally this supportive service is available once per placement.
- e. School Supplies/Activity fees/Allowable Irregular Maintenance - Payment may be made under supportive services for:
  - a. School supplies or activity fees charged for participation in school and community activities (e.g. uniforms or supply rentals, activity fees, transportation costs, school pictures, field trips, school supplies, class

ring, prom dress/tux, camps, music lessons/lease/purchase of musical instruments).

- b. Allowable irregular maintenance payments may be for personal incidentals of the child such as personal hygiene items, cosmetics, over the counter medications, special dietary foods, infant and toddler supplies (including high chairs and diapers), and miscellaneous items.

Following are the allowable rates established under Family Foster Care:

- I. Children ages 0 – 4 years of age \$200 per year
  - II. Children ages 5 – 12 years of age \$500 per year
  - III. Children 13 and over 18 or 18\* \$700 per year
6. Transportation Costs - Payment of transportation costs may be reimbursed on travel for the TANF Kinship Care child for reasonable travel to the child's parental home, reasonable parental travel to the child's Kinship Care placement home or other arranged location for visitation or other travel expenses as identified in the permanency plan. The allowable reimbursement rate for travel is \$0.45 per mile.

NOTE: Parental travel reimbursement must be reimbursed through the TANF Vendor Payment Process.

## **Appendix 400-19-165**

31. 400-19-165-175 SFN 376, Drug Related Felony/Fleeing Felon Review. This section incorporates IM 5300:

- Section Title has been changed to reflect the title of SFN 376, Fleeing Felon/Parole or Probation Violator Review.

### SFN 376, Fleeing Felon/Parole or Probation Violator 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.