

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 400-28, Child Care Assistance Program. This manual letter also incorporates changes made with:

- IM 5285 CCAP Payment Request Form Timeline
- IM 5291 Approved Relative Providers
- IM 5294 Achieving a Better Life Experience (ABLE) Accounts
- IM 5299 Child Support and Spousal Support – Court Ordered and Voluntary
- IM 5302 Verification of Activity Search Hours
- IM 5309 Intentional Program Violation
- IM 5320 Intentional Program Violation Procedures
- IM 5321 IPV Policy

This manual letter is being amended to indicate which sections of policy are effective with applications, reviews and ongoing cases effective March 1, 2018.

The following sections are affected:

- Household Composition 400-28-35
- TANF or Diversion Case Closure and Continued Child Care Assistance Program 400-28-45-45-25
- Allowable Activities 400-28-55
- Budgeting for the Child Care Assistance Program 400-28-75
- When Income and Allowable Income Deductions are Verified and Changed 400-28-75-50
- Mandatory and Known Information Changes 400-28-125

These sections have the effective date of the policy indicated in green below.

Par. 2. **Effective Date** – Changes included with this manual letter are effective with all new applications and reviews received on or after March 1, 2018, unless otherwise noted. For ongoing cases the changes must be made at the next review.

Items that include a change in policy are indicated. All other items are

corrections or clarifications.

Application 400-28-20

1. 400-28-20-10 – Date of Application and Benefit Start Date. Policy was added to state that an application is considered signed as long as the signature is contained anywhere on the form other than as an answer to a question. This was inadvertently removed with a prior manual letter.

Date of Application and Benefit Start Date 400-28-20-10

Households can apply for the Child Care Assistance Program in person, by mail, fax or electronically using one of the following:

- SFN 598 Child Care Assistance Program Application
- SFN 405 Application for Assistance
- The Electronic Application (OASYS) found on the Department of Human Services Website

An SFN 616 Child Care Billing Report form is not required at time of application.

CCAP does not require an interview in order to determine eligibility.

Date of Application and Benefit Start Date

The date of the application is the date the signed application is received in the county social service office.

The county social service office must document on the application the date the application was received in the county social services office.

Note: Applications received after business hours, on weekends or holidays are considered received on the next business day.

The application is considered signed as long as the signature is found anywhere on the application, other than in answer to a question.

If an unsigned application is received, the unsigned application must be returned to the applicant for signature. The county must document the date the signed application is received in the office. This date will become the application date.

Benefits will begin on the first day of the month in which the **signed** application is considered received in the county social service office.

Prior Month

Applicants may request assistance for the month prior to the application month (prior month). Households may request the prior month up to the last day of the month following the month of application. Requests for prior months made after the time of application must be submitted in writing to the county social services office.

Example:

A household applies for CCAP on April 3rd and is approved on April 15th. The household's benefit start date is April 1st. The household has until May 31st to request the prior month.

If eligible, CCAP will issue a one month certificate and make payment for the prior month.

If a certificate already exists for the requested prior month, a new eligibility determination is not made and payment for that month is based on the previous certificate.

2. 400-28-20-15 – Application Processing and Timeliness Standards.

- Policy on the denial of an application before the 30th day has been clarified. An application can be denied prior the 30th day when verifications have been requested but have not been received. Once verifications have been requested and received the application can be denied if there is no eligibility.
- Applications may no longer be denied if the co-pay exceeds the lower of the State Rate or billed amount. This has been removed as the family remains eligible for CCAP due to eligibility factors.
This is a change in policy.
- The policy for denial of no child care need has been moved to 'Establishing Need 400-28-20-35'.

Application Processing and Timeliness Standards 400-28-20-15

A decision to either approve or deny an application must be made no later than 30 days following the day the signed and dated application is received in the county social service office. The first calendar day following receipt of the signed application is day 1 of the 30 day processing timeframe.

Additional time may be allowed due to an extenuating circumstance. An extenuating circumstance may be determined by the eligibility worker, but reason for the extenuating circumstance must be documented in the case file. If it has been determined that an extenuating circumstance exists, 15 extra days are allowed to process the application. Action must be taken no later than 45 days following the date of application.

If an application is filed with no address, the eligibility worker should review the contact information found on the mailing envelope, in a phone book, on a Motor Vehicle query, or using any other available resources for address information. The application must be pended and if no mailing/residence address can be located, 'General Delivery' must be used for the mailing address and applicable notice(s) sent.

An application can be denied prior to the 30th day when the household fails to provide required verification(s) within 10 days of the date of the request for verifications.

Before denying prior to the 30th day, A a 'pPending' notice must be sent when any information required to determine eligibility is not received with the application. The applicant has 10 days from the print date of the pending notice to provide the required information and verifications. The 'pPending' notice must include:

- The information and verifications that are needed including the months for which information is needed.
- The time frame for submitting the information and verifications (10 days from print date of notice).
- Information regarding application denial if the information and verifications are not provided within 10 days.

Information and verifications received after business hours, on weekends or holidays are considered received on the next business day and are considered to be timely.

~~If an application is filed with no address, the eligibility worker should review the contact information found on the mailing envelope, in a phone book, on a Motor Vehicle query, or using any other available resources for address information. The application must be pended and if no mailing/residence address can be located, 'General Delivery' must be used for the mailing address and applicable notice(s) sent.~~

~~Pending applications cannot be denied prior to the 30-day processing timeframe or prior to the 10th day from the print date of the pending notice, whichever is later. However,~~ If verifications have been requested and received and it is determined the applicant is not eligible; the application can be denied at any time prior to the 30th day.

~~An application must be denied when:-~~

- ~~The Co-pay exceeds the lower of the State Rate or amount billed for all child(ren) whom assistance is being requested.~~

Example: ~~The family's co-pay is determined to be \$233 per month and the maximum payment CCAP will issue to the provider is \$180. The case must be denied as the co-pay will always exceed the amount that CCAP would pay.~~

- ~~• It is determined there is no child care needed.~~

~~If the applicant does not provide the information requested in the pending notice for **any** of the months requested (application month, prior month, or month following application), each month that was requested must be denied.~~

If the notices are returned for insufficient address:

- If the application has not been approved, it should be denied due to loss of contact and documented in the case file.
- If the application has been approved, the case can be closed for loss of contact and documented in the case file.

If the applicant provides information for one month but not the other month(s), the month that the information was provided for can be processed and the other month(s) must be denied.

- If the applicant is not eligible for child care for the prior month but is eligible for the month of application, the prior month is denied and the application is approved, effective the first of the application month.
- If the applicant is eligible for the prior month but not for the month of application, the prior month is approved effective the first day of that month and the case is closed as of the last day of the month. The same application would be processed for the application month and denied.

An application may be withdrawn at any time prior to a decision being rendered. The request to withdraw the application can be made in writing or verbally by the applicant.

3. 400-28-20-35 – Establishing Need. Clarification was added to specify that if there is only one child in the household and that child does not have a child care need, the application or review is denied.

Establishing Need 400-28-20-35

For a new application or review ~~in an ongoing case~~, in order for a child to be included on a certificate, the child must have a child care need for the current month or the month following the current month while the caretaker(s) is participating in an allowable activity. All hours the child needs child care in the month need is being established must be taken into consideration (which includes hours needed for days off from school, weekends, after school, etc.). At application or review, If a child does not have a child care need for the current month or the month following the current month, the child cannot be included on the certificate. If there is only one child in the household and that child does not have a child care need, then the application or review is denied. If the case is ongoing, the case would close.

At time of application, if need has been determined for a child for the prior month only, the child can be added to the 1-month certificate, but would not be included in the 12-month certificate.

If child care is requested for the prior month, actual hours the child needed child care while their caretaker(s) was in an allowable activity in the prior month must be used.

Once need is established for a child and the child is included on the certificate, the child will remain on the certificate for the remainder of the certificate period as long as all other eligibility criteria is met.

Household Composition 400-28-35

4. 400-28-35-05 – Child Care Assistance Unit. Policy on adding and removing household members has been change. Reported household changes are subject to timely reporting. The effect of the change in the household must be evaluated for an increase or decrease in benefit. **This is a change in policy. The policy on treatment of reported changes is effective with all applications, reviews and ongoing cases effective March 1, 2018.**

Child Care Assistance Unit 400-28-35-05

The household must include the child(ren) for whom assistance is being requested and the following individuals residing in the home:

- The natural, adoptive or stepparent(s)
- All siblings, (including half and step-siblings) who are under age 19
- All natural or adoptive children of the caretaker and caretaker's spouse who are under the age 19.

Note: The Child Care Assistance Program (CCAP), considers a child under the age of 19 through the month of the child's 19th birthday.

- Child under the Subsidized Guardianship Program

When two unmarried adults reside together, in order for a child to be considered a child in common, paternity of the child in common must be verbally acknowledged or legally adjudicated, or the parents must have signed a voluntary acknowledgment of paternity:

- If child care is being requested for a child in common of unmarried parents, both parents and the children of both parents must be included in the unit.

- If child care is NOT being requested for a child in common of unmarried parents, the child in common must be included in the unit(s) of siblings who child care is being requested.

Example #1: Unmarried non-TANF household includes mom, her child, Dad, his child and a child in common. Mom is requesting child care for her child and Dad is requesting child care for his child. Child care is not being requested for the child in common. Since assistance is not being requested for the child in common, Mom and Dad must each complete an application for CCAP. The child in common would be included as a household member in both Mom and Dad's household. Both Mom and Dad would have a 3 person household.

Example #2: Unmarried non-TANF household that includes Mom, her child, Dad, and Mom and Dad's child in common. Mom is requesting child care for her child. Child care is not being requested for the child in common. Mom must complete an application for CCAP. Mom would have a have a 3 person household which includes herself, her child and the child in common.

See Section 400-28-45-25, Unmarried TANF Households – Child in Common for an exception for TANF Households.

If the child(ren) for whom assistance is being requested resides with a loco parentis, the household must include the following individuals residing in the home:

- The sibling(s) (including half and step-siblings) of the child for whom assistance is being requested
- The loco parentis and spouse of the loco parentis
- The loco parentis' and spouse's children under age 19

A minor parent who needs child care for their child(ren) and who is residing in his/her parents' home is considered a separate household and must apply on their own behalf.

- If the minor parent is in receipt of TANF, the case is considered TANF for CCAP.
- If the minor parent is in receipt of Crossroads, the case is considered Crossroads for CCAP.
- If the minor parent is in receipt of Diversion, the case is considered Diversion for CCAP.
- All other minor parents are subject to Co-pay.

If a minor parent is residing with their parent(s) and the parent(s) have a child(ren) for whom child care is requested, the minor parent and the minor parent's child(ren) are not considered members of their parents' case.

The following individuals are excluded from the household count:

- Children 19 years of age or older (a child is considered under the age of 19 through the month of the child's 19th birthday).
- Any child for whom the household receives Foster Care payments.
- An individual in the household who is not the caretaker or sibling of the child and not acting as loco parentis.
- Parent(s) and other family members of a minor parent when the minor parent is requesting CCAP.
- Minor parents and their child(ren) if the parent(s) of the minor child are requesting CCAP.
- A child under 19 years of age who resides away from home may come home on weekends or vacations breaks. The child is not counted as part of the household if their visit is less than a full calendar month.

Note: A child under age 19 who has a child care need can be included in the household of the caretaker with whom the child care costs were incurred (refer to 400-28-35-25, Parents Not Residing Together).

Persons Entering the Home:

- New Applications and Reviews:
 - Individuals required to be included in the child care assistance unit who enter the home in the month prior to the application month must be included in the prior month determination.
 - Individuals required to be included in the child care assistance unit who enter the home prior to an application or review being approved must be included in the application or review month determination.
- Ongoing Cases:
 - Households are not required to report changes in household size except when there is no longer an eligible child.

When an eligible child moves into the household:

- If timely reported (within 10 days of the date of change) and verified, or is not questionable, the child is added effective the month the child entered the household.
- If the change is not reported timely or is questionable and not verified timely, the child is added effective the month the change was reported or was verified, whichever is later.

If the addition of the child to the household size increases the co-payment amount, the household size is not changed. The child is still added to the certificate. If the child has unearned income that would increase the co-payment amount, that income is not included.

Example:

September application was approved with mom and her child. On January 10th, mom reports that her other child from a previous relationship has moved into her household on January 5th and she will need assistance for that child. The application was initially approved with an income of \$1000 and a household size of 2 which resulted in a \$30 co-payment. The addition of the child increased the household size to 3 which increased the co-payment to \$35. As increases in co-payments are not allowed, the household size remains at 2 to keep the \$30 co-payment. The new child is still added to the certificate effective January as the change was timely reported.

When other individuals enter the household:

- If an additional individual enters the household it must be determined if the cumulative effect of change in the household size, income and deductions of that caretaker results in an increase or decrease in the co-payment amount.
- If the addition of the individual results in a decreased co-payment, the change is made based on timely reporting. If timely reported (within 10 days of the date of change) and verified, or is not questionable, the household size is changed and income is added effective the month the individual entered the household.
- When an additional caretaker enters the household, it must be determined if that caretaker has an allowable activity. If the caretaker does not have an allowable activity, the household must be allowed three consecutive months of continued assistance based on timely reporting of the change and policy at Allowable Activities 400-28-55-05.

Example:

September application was approved with mom and her child. On February 15th, mom reports that the father of the child has entered her household February 13th. The application was initially approved with an income of \$1000 and a household size of 2 which resulted in a \$30 co-payment. The addition of the father with no income increased the household size to 3 which increased the co-payment to \$35. As increases in co-payments are not allowed, the household size remains at 2 to keep the \$30 co-payment. The father does not have an allowable activity as of entering the household. As the change was reported timely, the household's three months of continued assistance begins March. Child care can continued to be paid for February, March, April and May with no activity of the father.

- ~~○ When an individual enters the home and child care is not needed for the individual for the month of entry, the individual is not included in the child care assistance unit if their addition results in a decreased benefit or ineligibility for the month of entry. If required, the individual must be included in the child care assistance unit the month following the month of entry.~~
- ~~○ When an individual enters the home and child care is needed for the individual, the individual must be added to the case for the month of entry regardless of the effect on the benefit, based on whether or not the information was timely reported and verified.~~

Persons Leaving the Home

- New Application and Reviews:

- At application. Individuals who are required to be included in the child care assistance unit leave the household in the month prior to the application month are included in the prior month determination but are not included in the application month determination.
- Individuals who are required to be included in the child care assistance unit leave the home in the month of application or review prior to the application or review being approved or denied are not included in the child care assistance unit, unless the individual who left is a child and the child had a need for child care.
- Ongoing Cases:
 - Households are not required to report changes in household size except when there is no longer an eligible child.

When an eligible child moves out of the household:

- If timely reported (within 10 days of the date of change) and verified, or is not questionable, the child is removed from the certificate in the month following the month the change occurred.
- If the change is not reported timely or is questionable and not verified timely, the child is removed effective the month the change occurred.
- If the only eligible child leaves the household, the case is closed based on timely reporting. Overpayments may need to be established for any months in which payment was made for child that was not present in the household.

When other individuals leave the household:

- If an additional individual leaves the household it must be determined if the cumulative effect of change in the household size, income and deductions of that caretaker results in an increase or decrease in the co-payment amount.

If the removal of the individual results in a decreased co-payment, the change is made based on timely reporting. If timely reported (within 10 days of the date of change) and verified, or is not questionable, the household size is changed and income is removed effective the month the individual left the household. If the change results in an increased co-payment, the change is not made.

- ~~• Once a case is approved, individuals who leave the home are included in the child care assistance unit through the month in which they left. Effective the month following the month the individual left, the individual must be removed from the unit.~~

In order for a marriage performed in North Dakota to be recognized or considered valid in North Dakota, couples are required to obtain a marriage license through the County Recorder's Office.

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

1. The marriage was legally performed in another state;
2. The marriage is a common law marriage that occurred in another state and was considered a valid marriage in that state (the couple would be required to provide documentation verifying that the common-law marriage was considered valid by the state in which it took place); or
3. The marriage occurred in another country and the marriage was considered valid according to the law of the country where the

marriage was contracted, unless the marriage violates the strong public policy of North Dakota.

Note: Polygamous marriages violate the strong public policy of North Dakota.

Eligibility for TANF Families 400-28-45

5. 400-28-45-40 – Child Care for TANF Recipients. Policy for requiring that the need for child care be included on the employability plan has been removed. Child care hours can be allowed for any activity as long as it is identified on the employability plan.

Child Care for TANF Recipients 400-28-45-40

The Child Care Assistance Program (CCAP) will pay child care for TANF recipients **only** if the allowable activity is identified ~~and the child care is approved~~ on the JOBS or Tribal New Employability plan. Child care for any allowable activity not identified on the employability plan **cannot** be paid through CCAP.

When a TANF recipient who is required to participate in the JOBS Program is not participating, child care will be paid for any activity the individual is participating in that is listed on the latest employability plan until the TANF case closes.

Example: Mom is required to participate in the JOBS Program in Job Search but fails to provide information to her case manager. The case manager completes the 'good cause' process and a sanction is imposed for October.

If Mom submits child care expenses for the months of September and October while searching for a job, since the latest employability plan lists her activity as Job Search and the Mom continues to be a JOBS participant through October 31st,

the child care expenses for September and October while searching for a job can be paid.

Should the child care expenses for the month of September and October be a result of an activity not listed on the employability plan, those child care expenses cannot be paid unless Mom begins participating in the JOBS program and a new employability plan is received that includes these activities.

TANF recipients who are not required to participate in the JOBS or Tribal NEW programs must volunteer to participate in the program in order for their child care to be paid through CCAP.

TANF households may choose to use child care expenses as a TANF earned income disregard up to the TANF maximum allowable costs or they may receive assistance under CCAP. Households may not receive the disregard and have child care paid under CCAP in the same month.

If a minor parent in the TANF household needs child care to complete high school or its equivalent, the minor parent should be informed of and referred to the Crossroads Program. (Refer to section 400-28-40, Crossroads Families).

6. 400-28-45-45-25 – TANF or Diversion Case Closure and Continued Child Care Assistance Program. Policy has been changed to allow a family three months of continued assistance when the TANF or Diversion Case closes. **This policy is effective with all applications, reviews and ongoing cases effective March 1, 2018.**

TANF or Diversion Case Closure and Continued Child Care Assistance Program 400-28-45-45-25

If a TANF or Diversion case closes and there is a known allowable activity, the certificate must be updated effective the month following the month of

TANF or Diversion case closure. The case becomes Co-pay or Waived Co-pay, whichever applies.

If a TANF or Diversion case closes and there **is not a known** allowable activity which continues, the household must be allowed three months of continued assistance before the case can close. The three months of continued assistance begin in the month following the month of the TANF or Diversion closure. ~~a closing notice must be sent to close the Child Care Assistance Program case at the end of the month equal to the TANF Closure.~~

If a TANF monthly report is not completed and returned by the 15th of the month for a TANF or Diversion case, a Closure **Pending** Notice must be sent to the household requesting information as to whether they continue to have a need and participate in an approved activity.

- If the family provides the completed TANF Monthly Report by the last day of the month and the TANF benefit for the future month is determined, the household is not subject to the three continued months of assistance and eligibility for CCAP may continue. ~~the Child Care Assistance Program (CCAP) case will not be closed, or if closed the case can be "reverted to open."~~
- If the family does not provide the TANF Monthly Report but contacts the Eligibility Worker:
 - If the individual ~~no longer has child care needs or~~ will not be participating in an approved activity for the future month, the household must be allowed three months of continued assistance from the month following the TANF or Diversion closure. ~~CCAP case remains closed effective the last day of the current month.~~
 - ~~If the individual has a child care need and is participating in an allowable activity, the household must provide the information to update the certificate by the last day of the month.~~

- ~~• If the individual provides the information to update the certificate by the last day of the month, hold the information and update the certificate in the month following the month of TANF closure.~~
- ~~• If the individual does not provide the information to update the certificate by the last day of the month, the CCAP case will close the last day of the month.~~

Allowable Activities 400-28-55

7. 400-28-55-05 – Allowable Activities. This section incorporates IM 5302. Policy has been added to clarify that activity search is allowed when the household reports at least one caretaker has a non-temporary loss of all of their activities. Once there is non-temporary loss of all allowable activities, the three months of continued assistance must begin. The three months of continued assistance start month is determined based on if the change was reported timely or not. **This is a change in policy. The policy on treatment of reported changes is effective with all applications, reviews and ongoing cases effective March 1, 2018.**

Allowable Activities 400-28-55-05

The following are allowable CCAP activities **after initial eligibility** has been established:

1. Activity Search - Activity search is not an allowable activity at the time of application or review.

Exception:

Activity search hours are allowable at the time of application or review for households that are also in receipt of Diversion, TANF or Transition and households that are homeless. Activity search hours must be listed on the most recent JOBS employability plan for TANF and Transition cases.

At time of application or review, in households with two caretakers, if one caretaker is in an allowable activity (work, education or training) and the other caretaker only has activity search as an activity, the application or review must be denied.

Example:

Mom applies for CCAP on May 5th listing her only allowable activity as activity search. The application must be denied as activity search is not an allowable activity at time of application.

In order for activity search to start, a caretaker must have a non-temporary loss all of their activities. A non-temporary loss of allowable activity is any loss of activity that is not time limited (two week, one month, etc.) and the individual does not anticipate returning to that activity. Child care for activity search must be allowed for three full consecutive months within an eligibility period once a caretaker loses their allowable activity. When a household includes two caretakers, each caretaker is eligible for three consecutive months of activity search within a certificate period. The level of care that was effective before the loss of activity cannot be reduced and must continue through the three allowable months of activity search. Verification of activity search hours is not required.

A household may be allowed more than one period of three full consecutive months of activity search within a certificate period.

Exception:

TANF recipients must follow the JOBS program guidelines, therefore, the three full consecutive month limitation does not apply to TANF recipients who are participating in the JOBS program when their JOBS employment plan includes any type of activity search.

~~In households with two caretakers, if one caretaker is in an allowable activity (work, education or training) and the other caretaker only has activity search as an activity, the application or review must be denied.~~

~~Exception:~~

~~Activity search hours are allowable at the time of application or review for households that are also in receipt of Diversion, TANF or Transition Activity search hours must be listed on the most recent JOBS employability plan.~~

~~Example 1:~~

~~Mom applies for CCAP on May 5th listing her only allowable activity as activity search. The application must be denied as activity search is not an allowable activity at time of application.~~

Example 2 1:

Mom applies for CCAP on June 16th and had a job at the time of application. The case is approved based on mom's work schedule. Mom reports on September 13th that she lost her job and is now job searching. Child care can be allowed for the time mom searches for a job.

Example 3 2:

Dad applies for CCAP on October 2nd listing his allowable activities as education and job search. The application can be approved for education hours only, as job search is not an allowable activity at time of application.

When a household reports a non-temporary loss of activity, it must be determined if the change was reported timely. If the change was reported timely, within 10 days of the day the change occurred, the three months of continued assistance will begin in the month after the change occurred.

~~Child care for activity search must be allowed for three full consecutive months within a certificate period. When a household includes two caretakers, each caretaker is eligible for three consecutive months of activity search within a certificate period. The level of care that was effective before the loss of activity cannot be reduced and must continue through the three allowable months of activity search.~~

~~A household may be allowed more than one period of three full consecutive months of activity search within a certificate period.~~

~~Exception:~~

~~TANF recipients must follow the JOBS program guidelines, therefore, the three full consecutive month limitation does not apply to TANF recipients who are participating in the JOBS program when their JOBS employment plan includes any type of activity search.~~

Example 1:

Household was approved for CCAP starting August 1st through July 31st at the full time level of care with employment as an allowable activity. On October 12th, the household reports that they lost their employment as of October 5th. Since the household timely reported the loss of activity, the household's three full months of continued assistance will begin in the month of November. The household remains eligible for the full time level for the months of October, November, December and January.

On December 20th, the household reports that they have found new employment. Since the household found a new allowable activity before the end of the three full consecutive month period, the household remains eligible. The full time level of care continues through the remainder of the certificate period, even if the household reports a decrease in allowable activity hours based on the new employment, based on policy at 'Determining the Level of Care 400-28-80-50.'

The co-pay may be decreased if the household reports that there is a reduction in income based on the new employment based on policy at 'When Income and Allowable Income Deductions are Verified and Changed 400-28-75-50.'

If the change was not reported timely, the three months of continued assistance will begin in the month the change occurred.

Example 2:

Household was approved for CCAP starting August 1st through July 31st at the part time level of care with education as an allowable activity. On October

12th, the household reports that they are no longer in an education activity as of September 15th. Since the household did not timely report the loss of activity, the household's three full months of continued assistance will begin in the month of ~~October~~ September. The household remains eligible for the part time level for the months of September, October, November ~~and December~~.

On November 3rd the household timely reports that they now have employment as an allowable activity. Since the household found a new allowable activity before the end of the three full consecutive month period, the household remains eligible. The household reports an increased need in the level of care based on allowable activity hours. The level of care can be increased to the full time level of care based on policy at 'Determining the Level of Care 400-28-80-50.'

The co-pay may be decreased if the household reports that there is a reduction in income based on the new employment as per policy at 'When Income and Allowable Income Deductions are Verified and Changed 400-28-75-50.'

On March 18th, the household timely reported that they lost their employment as of March 11th and no longer has any allowable activity. Since the household timely reported the loss of activity, the household's is allowed another three full months of continued assistance that will begin the month of April. The household remains eligible for the full time level for the months of March, April, May and June.

The household does not report by June 10th that they now have an allowable activity. Verification of

an allowable activity must be requested and the case may be set to close at the end of June. If no verifications are received by June 30th, the case is closed and the household must reapply.

~~The caretaker(s) must provide a written and signed statement with the dates, time and the job search activity they were participating in (example: submitting the date and time they were submitting applications, interviews). If this is not provided with the Child Care Billing Report form, the hours are not considered allowable.~~

2. Parental Leave – Parental Leave includes maternity, paternity and adoption leave. Parental leave is not an allowable activity at the time of application or review. Leave hours can only be allowed in ongoing cases after a case has been approved for work, education or training. The caretaker must intend to return to their employment, education or training.

In households with two caretakers, if one caretaker is in an allowable activity (work, education or training) and the other caretaker only has paternity leave as an activity, the application or review must be denied.

Example 1:

Mom applies for CCAP on May 5th listing her only allowable activity as parental leave. The application must be denied as parental leave is not an allowable activity at time of application.

Example 2:

Mom applies for CCAP on June 16th and had a job at the time of application. The case is approved based on mom's work schedule. Mom reports on September 13th that she is now on parental leave. Child care can be allowed for the time mom takes for parental leave.

~~When an ongoing household includes two caretakers, each caretaker is eligible for eight weeks of parental leave.~~

Child care for parental leave is allowed for a minimum of three full consecutive months within a certificate period. The household may be eligible for more than the three full consecutive months when the parental leave timeframe is verified by an employer. The level of care must continue at the same level that was established before the caretaker went onto parental leave. No additional hours are allowed for travel and breaks.

Example 1:

Household applies for CCAP on June 16th and had employment at the time of application. Household reports on September 13th that the caretaker is now on parental leave as of September 5th. Household also reports that the caretaker expects to return to employment December 1st. Since the household timely reported the parental leave, the household's three full months of continued assistance will begin in the month of October. The household remains eligible at the already determined level of care through the three full consecutive month period, even though the household reports an expected return to employment prior to the end of the three month period.

Example 2:

Household applies for CCAP on June 16th and had employment at the time of application. Household reports on September 13th that the caretaker is now on parental leave as of September 5th. Household also reports that the caretaker expects to return to employment February 1st. The

household provides verification that they will return to employment as of February 1st. Since the household timely reported and verified the parental leave, the household continued assistance will begin in the month of October and continue until February 1st.

Non-Allowable Activities 400-28-60

8. 400-28-60 – Non-Allowable Activities. This section has been repealed. Activities that are allowable are included in policy under Allowable Activities 400-28-60.

Financial Eligibility Requirements 400-28-65

9. 400-28-65-09 – Asset Exclusions. This section incorporates IM 5294.

Asset Exclusions 400-28-65-09

14. 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.

10. 400-28-65-10-42 – Child Support and Spousal Support- Court Ordered and Voluntary. This is a new section added with IM 5299.

Child Support and Spousal Support- Court Ordered and Voluntary 400-28-65-10-42

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

Child support is counted as the child's income

EXCEPTION:

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

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

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

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

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

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

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

Budgeting for the Child Care Assistance Program 400-28-75

11. 400-28-75-10 – Prospecting Income for the Certificate Period. Policy has been clarified for situations where an employer statement verifies a range of work hours. When this happens, the higher number work hours must be used to calculate the income. Policy on counting income when adding a household member has been updated to state that income of a new household member is only counted when the income results in an increase in benefits for the household (i.e. reduced co-payment). **This is a change in policy. The policy on treatment of reported changes is effective with all applications, reviews and ongoing cases effective March 1, 2018.**

Prospecting Income for the Certificate Period 400-28-75-10

Gross income, **either earned or unearned**, must be determined prospectively as eligibility is determined for a specific certificate period.

Income from the following timeframes must be verified and documented at application or review:

- Income from the month prior to the application or review, and
- Income from the month of application or review through the date the application or review is received by the county social service office.

If income from the specified timeframes is NOT reflective of anticipated income for the certificate period, the household must verify their anticipated monthly income.

Note: If an employer verifies a range of work hours, the higher number of work hours verified will be used to determine the prospected income.

Example 1:

A household applies for CCAP on November 18th. The household reports that they had a job end in October and received their last check from that job on November 5th. The household also reports that they started a new job November 10th. Income from the terminated job from October is not considered when prospecting income. Anticipated income from their new job that started in November would be used.

Example 2:

A household applies for CCAP on June 4th. Paystubs from May indicate that the household worked an additional 10 hours of overtime each week in May. The household verifies that they will no longer receive overtime in June or July. The income from overtime hours in May is not used when prospecting income for the certificate period.

If the household requests assistance for the month prior to the application month, actual income, including terminated sources, received in that month must be verified and used. Income is NOT prospected for the prior month.

Example:

A household applies for CCAP on June 4th and requests assistance with May child care costs from May. In May the household worked an additional 10 hours of overtime each week. All regular and overtime income would be considered and used for the month of May.

Adding or Removing a Household Member

When adding a household member during the certificate eligibility period, all gross income and deductions of that individual is considered and must be evaluated for an increase or decrease in benefits. If it results in a decrease, the income and deductions are not added and no further action is needed. If it results in an increase, the income and deductions are added based on timely reporting. ~~used starting the month the household member~~

~~joins the household.~~ In order to allow a increase in benefits, the new household member must verify income from the following timeframes:

- Income from the month prior to joining the household, and
- Income from the month of joining the household.
- If income from the specified timeframes is NOT reflective of anticipated income for the eligibility period, the household must verify the anticipated monthly income.

If the household fails to provide verification, the previously verified amount is used and the benefit remains the same. If there is no previously verified amount (i.e. household reports paying child support and previously had not), no change is made and the benefit remains the same.

When removing a household member during the certificate period, all gross income and deductions of that individual are removed effective the month the household member leaves is removed from the household if it results in an increase in benefits.

Waived Co-Pay

Ongoing CCAP cases that were in receipt of Crossroads, Diversion, TANF or Transition, but are no longer participating in one of those programs, must have their income prospected for the remainder of the certificate period. Income from the following timeframes must be verified and documented:

- Income from the month prior to the case closure, and
- Income from the month of case closure.

If income from the specified timeframes is NOT reflective of anticipated income for the certificate period, the household must verify their anticipated monthly income.

Ongoing CCAP cases that become eligible for Crossroads, Diversion, TANF or Transition must have their income removed from the CCAP case effective the month of eligibility of one of those programs.

Prospected income amounts are rounded down to the nearest dollar.

12. 400-28-75-50 – When Income and Allowable Income Deductions are Verified and Changed. Policy clarification has been added to include when there is a change in allowable deductions, that change can be acted on if it results in a decreased co-payment. **The policy on treatment of reported changes is effective with all applications, reviews and ongoing cases effective March 1, 2018.**

When Income and Allowable Income Deductions are Verified and Changed 400-28-75-50

Verification of gross income and allowable income deductions for all household members is required at application, review, or when a case changes from Waived Co-pay (Crossroads, Diversion, TANF or Transition) to Co-pay.

In an ongoing case, changes in gross income or allowable income deductions for existing household members are not acted upon, except in the following situations:

- There is a ~~reduction~~ change in income or allowable deductions that results in a decreased co-payment. Decreases in income are only acted on when the household verifies that the reduced income will continue. Reduced income will not be allowed when the household voluntarily reduces their activity hours for an allowable activity. Decreased income can be acted on when the household loses a job and then has a new job, when the employer reduces work hours without consent of the household, or when a household was working and then ends employment to attend an education activity.

- The household's monthly gross income, minus allowable deductions, exceeds the highest income level for the household size. In these situations, the case must be closed due to excess income.

Note: If the household does not anticipate that the income will continue to exceed the income limit for the household size, the household must provide verification of anticipated income and deductions.

When adding a household member, only the new household member must verify their gross income and allowable deductions. No changes in income or deductions are made for existing household members, unless one of the situations listed above applies.

Allowable Child Care Hours and Level of Care 400-28-80

13. 400-28-80-50. Determining Level of Care. Removed policy that states that the level of care must be determined when adding a household member who is participating in an allowable activity.

Determining the Level of Care 400-28-80-50

The level of care is used to determine if a child needs full-time, part-time or hourly child care and is based on the calculation of allowable child care hours of the caretaker and the child.

The Level of Care must be determined in the following situations:

- application
- review
- increasing monthly child care hours

- adding a child to the certificate
- ~~adding a household member who is participating in an allowable activity~~
- changing or adding a provider

A child may have more than one provider. The level of Care must be determined for each provider based on the number of hours the child needs care while the caretaker(s) is participating in an allowable activity.

To determine the Level of Care:

- Determine the allowable child care hours of each caretaker based on policy at 400-28-80-10, Calculation of Allowable Child Care Hours.
- Determine the child's allowable child care hours based on the policy at 400-28-80-10-05.
- Compare the caretaker's allowable hours to the child's allowable hours, the lesser of the hours when all schedules are compared will determine the level of care.

Example 1:

Household consists of one caretaker and one child. It is determined that the caretaker has 35 allowable activity hours per week. The child is determined to have a need of only 16 hours of care a week. 16 hours will be used to determine the level of care.

Example 2:

Household consists of two-caretakers and one school age child. Total allowable hours of the first caretaker are 22 per week. Total allowable hours of the second caretaker are 35 per week. The child attends school Monday through Friday and will be in child care after school for 3 hours per day (15 hours per week). An additional 9 hours per week are allowed for all school age

children. The child's need is determined to be 24 hours per week. After comparing all schedules, it is determined that 22 hours per week will be allowed. This is because CCAP allows for the least amount of hours needed when determining the level of care.

Once this information is determined:

- If the weekly hours calculated for a child average 25 or more per week, the child falls into the full time Level of Care.
- If the weekly hours calculated for a child average from 14 to less than 25 hours per week, the child falls into part-time Level of Care.
- If the weekly hours calculated for a child average less than 14 hours per week, the child falls into hourly Level of Care.

Once a level of care is established for a child:

- The level of care is not decreased for the remaining certificate period regardless if the caretaker has a decrease in hours which would result in the child needing a lower Level of Care.
- The level of care can be increased during the certificate period when the caretaker has an increase in allowable activity hours.

Provider Requirements and Information 400-28-105

14. 400-28-105-20 – Approved Relative. This section incorporates IM 5291.

Approved Relative 400-28-105-20

Approved relatives must be approved to provide care for specific children. Child Care Assistance Program (CCAP) will only make payment for children who are identified on the approved relative's approval letter.

An Approved Relative is a provider, whose relationship to the child by marriage, blood, or court degree, is a:

- Grandparent (including step-grandparents)
- Great-grand parent (including great step-grandparents)
- Aunt or uncle (including step-aunt or uncle)
- Sibling (including step-siblings) when the sibling lives at a separate residence from the child(ren).

NOTE: Siblings cannot be an 'approved relative' provider if the sibling resides with the child(ren).

Approved relatives must apply to become eligible. The following items are required as part of the application process:

- SFN 23, Application for Approval for Relative Child Care Provider
- W-9, Request for Taxpayer Identification Number and Certificate
- SFN 433, Child Abuse and Neglect Background Inquiry for each household member age 18 and over
- Verification of SSN or Employer Identification Number (EIN)
- Verification of relationship to the children that care will be provided for. Acceptable verification includes but is not limited to:
 - Birth certificates
 - Adoption papers
 - Court records

To assure the health and safety of children, the approved relative and all adult household members (18 and over) will be subject to the following background checks:

- North Dakota Supreme Court website
- North Dakota State's Attorney's Sex Offender website
- Children and Family Services criminal back ground check

An Approved Relative's request to be a provider will be denied or will be terminated in an ongoing case when the applicant or household members have been found guilty of, pled guilty to, or pled no contest to any offense described in section 75-02-01.3.05 of North Dakota Administrative Code (N.D.A.C.).

Approved relative applicants must reside in North Dakota. Approved relatives can only provide care in the provider's own home. Approved relative providers cannot be approved to provide care in the child's home unless the child is subject to policy at 400-28-35-30, In Home Care Due to Illness/Disability. If an approved relative provider applicant is living in the same home as the child(ren) they are applying to care for, and separate living quarters do not exist, the approved relative application is denied. The approved relative provider applicant must apply to become licensed or self-declared in order to receive payment from CCAP.

An approval or denial letter will be sent to the applicant upon determination. An applicant may appeal the decision by submitting a signed written request to the agency within 30 days from the date of the notice of the letter. During an appeal process, payments will not be made by the CCAP.

- A pending notice will be sent in situations when more information is needed. The applicant or approved provider has 10 days to respond to the notice. If the applicant does not respond to the notice within 10 days, the application will be denied. In ongoing approvals, the approval must end at the end of the month after the 10 days have passed.

Once approved, a provider number will be assigned by the state CCAP office.

Approved relative providers must renew the approval every year in order to continue to receive CCAP. The provider must also submit a W-9 yearly with their renewal application.

If the approved relative provider moves, the approval becomes invalid and the provider must reapply.

Approved relative providers are required to maintain attendance records for each child in their care. Records should include the child's name, the date, and check-in/check-out times. All attendance records must be made available at the request of the state or county social services office. The attendance records must be handled in a manner that protects the identity of CCAP families.

Mandatory and Known Information Changes 400-28-125

15. 400-28-125-05 Mandatory Changes. The title of this section has been changed to Reporting Requirements. Mandatory reportable changes have been reduced to non-temporary loss in allowable activities, changes in state residency, exceeding the maximum income limit and when there is no longer at least one eligible child in the household. This change aligns with eligibility requirements required by the Child Care and Development Block Grant Act of 2014. **This is a change in policy. The policy on treatment of reported changes is effective with all applications, reviews and ongoing cases effective March 1, 2018.**

~~Mandatory Changes~~ Reporting Requirements 400-28-125-05

Mandatory Any changes must be reported to the county social service office within 10 days from the date the change occurs in order to be considered

timely. The first calendar day following the date the change occurs is day 1 of the 10 day reporting timeframe.

Note: Changes reported after business hours, on weekends or holidays will be considered received on the next business day.

Changes may be reported in writing, in person, by telephone, by fax or electronically.

Mandatory reportable changes are:

- ~~Change in household size~~
- ~~Change in~~ Non-temporary loss of allowable activity.
 - A non-temporary loss of allowable activity is any loss of activity that is not time limited (two week, one month, etc.) and the individual does not anticipate returning to that activity. When an individual reports a non-temporary loss of allowable activity and does not already have another allowable activity, the individual must be given three months of continued assistance before CCAP can be closed.
 - ~~Start or end of allowable activities and activity search~~
 - ~~Start or end of TANF, Diversion, Transition or Crossroads~~
- ~~Increase in monthly child care hours~~
- ~~Changes in provider(s) or addition of provider(s)~~
- State residency
- When the household's monthly gross income, minus allowable expenses, exceeds the highest income level for its household size

- When there is no longer an eligible child in the household.

Only mandatory reportable changes may result in a case closure.

When other changes are reported, the worker must determine if the cumulative effect of the changes will result in an increase or decrease in benefits. If it results in a decrease in benefits, no further action is taken and the changes may be acted on at the next review.

~~When mandatory changes are reported,~~ If the changes result in an increase in benefits, or it is unclear what the effect on the benefits will be,
verification must be obtained and If~~and additional information is needed,~~ a closing correspondence notice must be sent. The closing notice must include:

- The information and verifications that are needed.
- The timeframe for submitting the information and verifications (10 days from print date of notice).
- ~~Information regarding case closure if the information and verifications are not provided within 10 days. (Cases must close at the end of the month in which the 10 day reporting period ends, even when the 10th day extends into a future month.)~~

~~If the household provides the information within 10 days from the date of the notice or if the information is provided after the 10 days, but prior to the case closing, the change must be processed based on section 400-28-125-30, Required Action on Mandatory Changes.~~

If the household provides verification within the 10-day period, the worker must act on the reported changes when the changes result in an increase in benefits.

If the household fails to provide verification within the 10 day period, the previously verified amount of the reported change is used and the benefit remains the same. If there is no previously verified amount (i.e. household

reports paying child support and previously had not), no change is made and the benefit remains the same.

If the household fails to provide verification within the 10 day period and provides verification at a later date, benefits are increased the month the verification is received.

If a household reports multiple changes that result in an increase in benefits, only those changes that have been verified are acted on.

Example:

1. Household reports a reduced income due to a reduction in work hours and an increase in a child support deductions. The household is sent a correspondence notice requesting verification of the change. The household provides verification of the child support deduction, but not of the reduced income. The only change that can be acted on is the increase in child support deduction.

~~If a case closes for failure to provide additional information and required information is received in the month following the month of case closure, the case must remain closed. The household must reapply.~~

~~If the mandatory changes do not affect eligibility or the certificate(s), the case file must be documented to reflect the changes reported and the reason no action was taken.~~

~~Other changes (non-mandatory) may also be reported. If these changes do not require additional information or verifications and changes do not affect eligibility or the certificate(s), the case file must be documented to reflect the reported change and the reason no action was taken. If the change does affect eligibility, a closing notice must be sent requesting additional information.~~

Verification of Child Care Costs 400-28-130

16. 400-28-130-05 –Child Care Request for Payment 400-28-130-05. Policy has been added to clarify that the absent hours field on the SFN 616 can be left blank and the form can still be considered complete. Policy has been added that requires Eligibility Workers to process payment request forms within 21 days from the recipient of a completed SFN 616. This change aligns with processing requirement requirements in the Child Care and Development Block Grant Act of 2014. **This is a change in policy.**

Child Care Request for Payment 400-28-130-05

Child care costs incurred for a calendar month must be verified by using and completing the SFN 616, Child Care Request for Payment form ~~for child care costs incurred in a calendar month~~. It is the responsibility of the child care provider to complete the Child Care Request for Payment form each month.

Both the caretaker and the provider are required to sign and date the form AFTER the form has been completed.

Either the caretaker or the provider may submit the form to the county social service office.

If the form is not complete, the form should be returned to the caretaker or provider for completion. Column 3 of the SFN 616 can be left blank and still be accepted as a completed form. When left blank, no additional absent hours are allowed.

Completed forms **must** be processed with 21 days from the date the completed form is received in the county social service office.

The county social service office must document on the form the date the form was received in the county social services office.

Note: Forms received after business hours, on weekends or holidays are considered received on the next business day.

- If a provider or a caretaker is not available or refuses to complete or date the Child Care Request for Payment form, the eligibility worker will be expected to explore all avenues of locating the person who needs to complete, sign, or date the form. If the information needed to complete the form can be reasonably established by the provider or caretaker, payment can be made without completion by the missing party. A third party may attest to the accuracy of the billing report form only if the individual who needs to complete the form cannot be located. All actions taken must be documented.

17. 400-28-130-10 – Time Frame for Submitting SFN 616 'Child Care Billing Report' Forms. This section incorporates IM 5285.

Time Frame for Submitting SFN 616 'Child Care Billing Report Request for Payment' Forms 400-28-130-10

Billing report Request for Payment forms must be submitted 2 months following the month child care services were provided. ~~Payment will not be made for billing forms received after the two 2 month period.~~ All forms must be submitted by the close of the last business day of the month in which the form is due.

Example:

If child care is incurred for the service month of May, the last day the form can be submitted is up to the close of the last business day in July, to be considered as received within the 2 month time frame.

Exception:

Payment Request forms for the month prior to application, when assistance is requested for the prior month, must be submitted within 3 months from the month child care services were provided.

Example:

Household applied on May 25th and requested assistance for the prior month of April. The household was approved June 20th including the

prior month of April. The payment request form for the service month of April must be submitted no later than the last business day of July.

If a form is received after the 2 or 3 month time period, the family household must be notified that payment cannot be made because the billing report form was received after the 2 or 3 month time limit. The family household must be notified in writing the payment cannot be made.

Notices 400-28-140

18. 400-28-140 Notices. The Excess Income Notice and Provider Closing Notice have been added to policy.

Notices 400-28-140

The family must be notified with a Child Care Assistance Program (CCAP) notice whenever assistance is denied, pended, or closed, providing them the opportunity for a fair hearing.

The notices that are sent are the documentation of action taken on a case. When a case is authorized for payment, the family will receive a notice automatically which states the total child care billed, amount being recouped if any, the amount the state will pay and the family share. Additional information may be entered on the comment screen. Notices are mailed to the caretaker the next business day following the process date.

Advance or adequate notice is not required in Child Care Assistance program.

Following is a listing of notices for CCAP:

1. Child Care Certificate -- issued to the caretaker and provider when an application is approved and when a ~~6-month~~ review is completed. Each time a certificate is updated a copy is mailed to the caretaker and the provider who is affected by the updated certificate.

2. Payment Notification - informs the caretaker that a payment has been processed. The notification displays the amount over state rate, family monthly co-pay, amount recouped, and amount being paid by the CCAP.
3. Closing – informs the family they no longer meet the criteria for the CCAP.
4. Correspondence – informs to the family when one of the other notices is not appropriate.
5. Denial - This notice is sent when the eligibility worker is denying the case.
6. Pending - This notice is to be used when an application is received which is incomplete.

Note: The Master Record is completed with a "P" for pending action code, and the notice is sent. Check the appropriate items that need to be completed before the application can be acted upon.

7. Overpayment Notice – informs the family of an overpayment.
8. Underpayment Notice – informs the family of an underpayment.
9. Excess Income Notice – This notice is automatically generated by the system once a Child Care Certificate has been created. This notice informs the caretaker of the maximum income amount that can be received for the household size.
10. Closing Notice for Providers – This notice is sent to all providers listed on the certificate when a case closes. This informs the provider that case is closing and that any services charged after the case closure date will not be paid by CCAP.

Underpayments and Overpayments 400-28-150

19. 400-28-150-15-10. Situations Where an Overpayment May Need to Be Established. Policy has been changed to align with the change to 12 month certificates that was effective 10/1/2017. This section was missed in the original changes.

Situations Where an Overpayment May Need to be Established 400-28-150-15-10

The following is a partial listing of reasons an overpayment may need to be established:

- Individuals residing in the household who were required to be part of the child care assistance unit, but not reported at the time of application, ~~6-month~~ review or as a mandatory change which resulted in a change of eligibility
- Income and/or allowable deductions that should have been reported and used at the time of application, ~~6-month~~ review or as a result of a mandatory change which resulted in a change of eligibility
- Child care paid for a caretaker(s) who was not in an allowable activity
- Administrative Errors resulting in overpayments
- Receiving assistance in two states at the same time
- Not being a resident of North Dakota
- Information obtained during the Intentional Program Violation which results in an overpayment

Intentional Program Violation 400-28-162

20. 400-28-162-15. Initiating an Intentional Program Violation. This

section incorporates IM 5320.

Initiating an Intentional Program Violation 400-28-162-15

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
- h. Indicate the date the SFN 1940 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.
- g.i. The form must be signed by the county (an electronic signature is acceptable).

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

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

21. 400-28-162-20. Scheduled Intentional Program Violation Meeting. This

section incorporates IM 5320 and IM 5321.

Scheduled Intentional Program Violation Meeting 400-28-162-20

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

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

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

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

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

If the individual attends the scheduled meeting the county must:

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

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

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

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

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

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

If the individual suspected of an IPV is not the head of household (PI), the head of household 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, 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.
- The state office will notify the county of the date of 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.

22. 400-28-162-30. Court Conviction. This section incorporates IM 5309.

Court Conviction 400-28-162-30

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 CCAP 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; and
- 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; and
- 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.~~