FAMILIES FIRST

POLICY

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INTRODUCTION

Families First is a goal-oriented, time-limited assistance program for families with dependent children. The values of work and child support, as primary means of achieving and maintaining self-sufficiency, are the basis of the program. In addition to providing cash benefits, and encouraging work and child support, the Families First program promotes the values of education and healthy children through the requirements of school attendance, immunizations and health checks. Each applicant and recipient of Families First is expected to make a commitment through a Personal Responsibility Plan.

The Department of Human Services is committed to providing the assistance families may need to meet their goals. The Department will determine eligibility for Families First and will provide case management services to all family members who sign a Personal Responsibility Plan in preparation for, or continuation of, work. The Department will provide child care and will contract with outside agencies that will develop Individualized Career Plans, provide transportation and other support services needed to help families achieve their individual work goals. Individuals who need help with drug, alcohol, mental health problems, or vocational rehabilitation services will be referred to agencies that can provide that assistance. Minor parents will be required to stay in school or return to school or alternate training activities. Each family, regardless of their composition or their personal circumstances, will receive the support they need to develop and follow a plan to meet their goals for an improved family life.

AUTHORITY FOR FAMILIES FIRST:

The Tennessee Department of Human Services was initially granted authority to implement Families First under a federal 1115 waiver of the Social Security Act. This resulted in the "Families First Act of 1996", passed by the Tennessee General Assembly April 25, 1996, and approved by Governor Don Sundquist on May 13, 1996.

The Families First waiver expired effective June 30, 2007, and the program came into compliance with TANF regulations effective July 1, 2007. The modifications to the program were approved by the General Assembly by passage of Public Chapter 31, enacted on April 17, 2007.

FAMILIES FIRST RULES REFERENCE

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The State Rules have not yet been updated to reflect the policy changes.

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FAMILIES FIRST DEFINITIONS

The following definitions are applicable to the Families First program:

Absence	Refers to an individual who is physically not in the home.
Administrative (Agency) Error	An overpayment or underpayment caused by an error made by any representative of the Department of Human Services. Examples of administrative errors include, but are not limited to, the following: • Failure to take timely action on a change reported by the AU or known to this Department. • Incorrect computation of the AU's income or deductions, or authorization of an incorrect grant amount. • Incorrect application of policy.
Adoptive Parent	The mother and/or father of a child whose parental relationship to the child has been formally established in a court of competent jurisdiction.
Adult Education	Adult Education courses provided through a certified institution. May include courses designed to provide knowledge and skills for a specific occupation or work setting, adult education, or English as a Second language. Also, attendance at a secondary school or GED course for those who do not have a high school diploma or the equivalent. Classified as a non-core work activity.
Adverse Action notice	A computer generated notice sent to a Families First client when a negative action is taken on a Families First case.
Alleged or Putative Father	The biological father of a child born out of wedlock for which paternity has not been established.
Approved Day Homes	Day Homes which are operated under the aegis of a licensed Day Care center.
Assessment	The process of determining how prepared or ready a client is to enter the workforce and to achieve self-sufficiency based on educational levels/training and work history.
Assistance	The cash benefits paid to an eligible Families First group.
Assistance unit	A group of individuals for whom Families First is requested or authorized. An assistance unit may be referenced as AU.

Barriers	Obstacles which may interfere with the participant's participation or success in work, education, or training activities such as drug/alcohol, mental health, domestic violence, or other serious problems or conditions.
Bona Fide Job Offer	A job, paying at least the minimum wage and for at least 30 hours per week, which is offered by a private employer, Department of Labor and Workforce Development, or other work/training programs under contract to, or in agreement, with DHS.
Capitation Rate	A monthly rate paid to a Families First work activity contractor, per Families First client, for providing employment preparation, placement, retention services, transportation, and other support services, as needed.
Care	Refers to the provisions of protection, attention, personal services, and maintenance of a child by his/her caretaker.
Caretaker	A relative within a specified degree of relationship to the child who: • Provides a home for the child, **and** • Exercises primary responsibility for care/control, **and** • Is included in the assistance unit (AU).
Case Management	The activities associated with empowering and managing the eligibility of families through the Families First Personal Responsibility Planning and plan implementation process.
Child Care Services	Child Care Services are provided when necessary for the participant to take part in work or training activities while the family is still receiving cash assistance.
Child or Children	A person or persons under 18 years of age or a person(s) who has not reached 19 years of age and who is a full-time student in secondary school and is expected to graduate by his/her 19th birthday.
Client Representative	DHS staff person who guides the Families First client through the program and assists the client and Families First work activity contractor, as needed, with issues related to the provision of employment preparation and placement.
Community Service	Structured programs in which Families First recipients perform work for the direct benefit of the community under the auspices of public or non-profit organizations. Classified as a Core Work Activity.
Conciliation	A 10-day period of time given to a Families First client to

	establish good cause or begin compliance with work/training activities. This period begins following the issuance of an Adverse Action notice.
Consolidated Need Standard	The amount of income an assistance unit would need to meet subsistence living costs, according to allowances set by the state, for items including food, clothing, fuel, lights, household operations, personal incidentals and shelter. This amount determines the income level used to determine Families First financial eligibility.
Contractor Zone	A county or counties for which one Families First work activity contractor is responsible. The state is divided into 5 zones.
Core Work Activities	One of the following federally defined work activities that can count for all of a client's required work hours: Unsubsidized work, Job Search and Job Readiness, Work Experience, Community Service, Vocational Education, and subsidized employment. They must comprise at least 20 hours of a client's work requirement hours. Some limitations may apply to these areas.
Custody	Immediate charge and control exercised by a person (or an authority) over another. Legal custody is granted by a court of competent jurisdiction.
Deficit Reduction Act Of 2005 (DRA)	Federal legislation signed February 8, 2006, that reauthorized the TANF Block Grant, implemented stricter definitions of work activities, and required States to provide a Work Verification Plan.
Demand Occupation	An occupation for which there are employers in the local community or area with vacant positions for this job; or employers are willing to establish positions for this occupation if trained individuals are available for work.
Department	The Department of Human Services
Dependent Child	A child who is deprived of parental support or care because of the unemployment of the primary wage earner (if both parents are in the home), or because one or both parents are absent from the home, deceased, <u>or</u> physically/mentally incapacitated; and whose legally responsible relatives are not able to provide adequate care or support of such child without temporary assistance A child who is deprived of parental support or care <u>and</u> is a full-time student in a secondary school or an equivalent level of vocational or technical school; <u>and</u> is reasonably expected to

	complete the course of education/training before age 19, or in the month of the 19th birthday.
Diagnosis	The art or act of identifying a disease by a qualified individual from its signs and symptoms.
Disability	A physical or mental condition that is permanent and renders the individual unable to perform work. See the Work Requirement Chapter, Verifications Section for a complete list of disability conditions.
Earnings of Not Less Than $50 per Quarter	Wages, salaries or commissions paid to an individual or self-employment income.
EITC	The federal Earned Income Tax Credit available to low-income families, a portion of which is available as a monthly advance from the employer when the worker completes IRS Form 5. It is also available as a lump sum at the end of the tax year.
Family	A family is an eligible group of children and parent(s) or caretaker relatives residing in a common residence.
Family Cap	A ceiling on assistance unit grant payments for a period of eligibility that occurs when a child is born to an assistance unit 10 months or greater from the initial payment.
Grantee Relative	A person who receives Families First for children in his/her care. This may be a relative other than a parent. A relative other than a parent may be included/excluded from the assistance unit, depending on case circumstances.
Guardian/Conservator	An individual named by a court of competent jurisdiction (usually the Chancery or Probate Court) to manage the affairs of an adult who has been adjudicated mentally or physically incapacitated, or one who has been named to manage the affairs and/or person of a minor.
Half-Siblings	Half-brothers/sisters who share one biological or adoptive parent.
Handicap	A disadvantage that makes achievement unusually difficult; especially incapacity.
Home	A home is considered to be a family setting maintained (or in the process of being established) by the relative who requests Families First for a child living with him/her. Under this definition, the family setting may vary from a homeless shelter to another temporary arrangement. A home exists as long as the relative exercises care and control of the child, even though either the child or the relative is temporarily absent from the

	customary family setting.
Illness	An unhealthy condition of the body or mind; sickness.
Impairment	To make worse by diminishing in some material aspect. Synonyms include: injury, weakening, incapacitation, deterioration, crippling, maiming.
Improper Payment Error (IPE)	Examples of improper payment errors include, but are not limited to, the following: • The assistance unit was overpaid because the recipient or legally responsible relative was on strike as of the last day of the month. • The assistance unit received sufficient income (earned and/or unearned) in the payment month to result in ineligibility. • The assistance unit received a lump sum payment which resulted in a period of ineligibility being established.
Inadvertent Client Error (ICE)	A misunderstanding or unintentional failure on behalf of the CLIENT to provide correct information or to report changes timely and accurately.
Incapacity	Is deemed to exist when one parent has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a debilitating nature as to reduce substantially, or eliminate the parent's ability to support or care for the otherwise eligible child and be expected to last for a period of at least 30 days. Incapacity may be a reason for deprivation or may be a reason for a temporary exemption from a work requirement.
Inmate	A person living in an institution who is not free to leave on his own volition or who has been committed to the institution; especially a person who is confined (as to a prison or a hospital).
Intentional Program Violation (IPV)	A determination or adjudication by an administrative disqualification hearing or state or Federal court that an individual or group of individuals knowingly obtained benefits to which they were not entitled.
Job Search and Job Readiness	The act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training and substance abuse treatment, mental health treatment or rehabilitation services. Considered a Core Work activity; limited to 4 consecutive weeks or 360 hours in the preceding 12-month period for "needy states." **(Bulletin 37, FA-08-28)**

Job Skills Training Directly Related to Employment	Training which enables clients to obtain or perform a specific job or type of job. May be job-specific or general training and can include literacy or language instruction. Post-secondary education is counted as job skills training if the individual has exhausted the Vocational Education limit of 12-months. Considered a Non-Core Work activity. **(Bulletin 37, FA-08-28)**
Joint Custody	Legal custody of a person held by two or more other persons. Usually joint custody is granted to parents of children when the parents are divorced.
Labor Market Connection	Six or more quarters of work within any 13 calendar quarter period, ending within one year prior to the application month. Full-time elementary or secondary school attendance and/or training may be substituted for a maximum of four of the six quarters of work in establishing a labor market connection; **or**-receipt of unemployment benefits within one year prior to application; **or**-if the person did not receive unemployment benefits, but would have received if he/she had made application for them.
Legal Father	The biological father of a child married to the child's mother; the mother's husband when a child is born during the marriage; the child's legally adoptive father; the biological father whose paternity of a child has been legally established.
"Living With**"**	Occupying a place of residence maintained by a specified relative as his/her own home and the home of the child (for whom Families First is requested).
Marriage During the Receipt of Assistance	A legal union between a caretaker and another individual during a period of eligibility.
Minor	A person under 18 years of age. A minor is considered a Dependent Child if he/she is living with a specified relative and is otherwise eligible. A minor parent may apply for assistance for her/himself and his/her child as an independent assistance unit if living outside of a parent's home or if living in the parent's home when the parent chooses not to apply for assistance or is ineligible for assistance.
Natural/Biological Parent	The birth mother; the biological father of a child born in or out of wedlock.
Non-Collegiate Institution	A post-secondary institution which does not award degrees. State Technology Centers and private not-for profit trade schools meet this criterion.

Orientation	A clear explanation of Families First, the Personal Responsibility Plan requirements, work and training opportunities, child care, supportive services, penalties, and processes.
Parent	The biological or adoptive mother and/or father of a child when relationship has been properly established. This does not apply to alleged parents for whom relationship has not been established.
Payee	The person to whom an FF grant is payable
Post-Secondary Institution	An institution of higher education which awards degrees or certificates. State Technological Schools, Community Colleges, Technology Centers, four year institutions all meet this definition.
Principal Wage Earner (PWE)	Whichever parent had the greater amount of earnings in the 24 month period, including the month immediately preceding the month of application. If both parents have the same amount of income, the caseworker and the family will designate principal wage earner.
Prognosis	The prospect of recovery as anticipated from the usual course of disease or peculiarities of the case.
Protective Payee	The person other than the caretaker or grantee relative to whom a FF grant is payable. A protective payee has responsibility for administering the benefits of the assistance unit grant payment for the benefit of the assistance unit.
Quarter of Work	Three consecutive calendar months ending 03/31, 06/30, 09/30 or 12/31 during which an individual: • Earned not less than $50; **or** • Participated in a JOBS program; **or** • Attended an elementary or secondary school; **or** • Vocational or technical course designed to prepare the person for gain-full employment on a full-time basis.
Regulated Child Care	Child care provider in a facility which is subject to licensure by the Department of Human Services (or in some instances the Department of Education), or child care provider under the supervision of a sponsoring organization for registered homes under contract with the Department of Human Services).
Relative Within a Specified Degree Relationship	Any blood relative, i.e., father, mother, brother, sister, uncle, aunt, first cousin, nephew, niece, first cousin or first cousin once removed. This includes relationships to previous generations as follows: grandparents, great-grandparents, great-great

	grandparents, great uncles or aunts, and great-great-great grandparents. • Any of the above relatives who are of half-blood relationship. • Stepfather, stepmother, stepbrother, and stepsister. • Legally adoptive parents of the child or of the child's parents, the natural and other legally adopted children of such persons, and the blood relatives of such persons, including first cousins, first cousins once removed, nephews and nieces, and the relatives by adoption of the previous degrees of relationship. • Legal spouses of any of the persons named above in the above groups. This applies even though the marriage may have been terminated by death or divorce.
Set of Children	A set of children is one child, or two or more children who are whole brothers and/or sisters, half-brothers and/or sisters, or adoptive brothers and /or sisters.
SSI Beneficiary	A person who receives Supplemental Security Income benefits through the Social Security Administration.
Step-parent	A person who is not the natural or adoptive parent of the child, but who is married to the child's natural or adoptive parent.
Step-sibling	Stepbrothers/sisters who share no natural or adoptive parent, but their respective parents are married to each other.
Strike	Any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. The term "participating in a strike" means an actual refusal in concert with others to provide services to one's employers
Subsidized Employment	Employment in the public or private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a Families First client. The client is paid wages and receives the same benefits as a non-subsidized employee who performs similar work – considered a Core Work activity
Support	Refers to the furnishing of a means of livelihood or sustenance.
Support Services	Transportation, optical, dental and other services which are provided by the Families First work activity contractor when necessary for participation in work or training activities.
Technically Eligible	The state of meeting all non-financial Families First eligibility

	requirements.
Temporary Absence	Being away from the home for a short period of time (usually not to exceed three months) with the specific intention of returning to the home on or about a specific date.
Transitional Child Care Services	Child care which begins at case closure and is available for up to 18 months for working families. The parent or caretaker relative must help contribute to the cost of care and meet certain income guidelines.
Unemployed Parent	A principle wage earner (PWE) parent who: • Is employed less than 100 hours per month; **or** • Is employed 100 hours per month or more; **IF** the excess is of a temporary nature, the 100 hour rule was met in the two months prior to the current month, and is expected to be met the month following current month, **AND** • Is unemployed for reasons other than participation in a labor dispute.
Unemployment Benefits Compensation Insurance	Collective terms denoting payment made when one becomes unemployed through no fault of his/her own. State administered through Department of Labor and Workforce Development. Sometimes, UC or UIB.
Unsubsidized Work	Full- or part-time employment in the public or private sector that is not subsidized by TANF or any other public program – considered a Core Work activity. May include self-employment.
Vocational Education Training	Organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations. Is limited to 12 months in a lifetime. May include bachelor's degree or advanced degree program (as well as two-year degree programs and vocational certificate programs), if the individual has not exhausted the Vocational Educational training limit of 12-months. Considered a Core Work activity. **(Bulletin 37, FA-08-28)**
Whole Siblings or Siblings	Brothers/sisters who share the same mother and father.
Work Experience	Work performed in return for welfare that provides a Families First client with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment.

ASSISTANCE UNIT

POLICY STATEMENT

An assistance unit is a group of people applying for or receiving Families First benefits. An assistance unit may be referred to as an AU.

General principles for assistance units include the following:

- All AU members must be technically eligible.
- Income and resources of AU members must be counted, unless exempt.
- If optional members are included, all of their income/resources are included.
- Children must be within the specified degree of relationship to the person requesting assistance.

Mandatory AU Members Include:

- The dependent child.
- The technically eligible whole, half, or adopted siblings of the dependent child.
- The technically eligible parent(s), including an incapacitated parent or an unemployed parent, living in the home with the dependent child.
- The technically eligible **alleged parent** in the home who meets incapacity or unemployed parent criteria. The blood relationship to the child must be established. An alleged parent cannot be included in the AU if the child has a legal father. When an alleged parent of one or more children lives in the home with the child's other parent and their child's technically eligible half sibling(s), all siblings and both parents must be included in a single AU.

  Any eligible married or single minor who lives with or moves into the home with a Families First recipient caretaker parent who is receiving Families First for the minor's siblings cannot be a separate AU, but must be included in his/her parent's AU with his/her sibling(s).

  - A minor parent's child may be included or excluded from the major parent's AU depending on who is applying.
    - If the minor parent is applying for his/her child, the child must be included in the major parent's AU.
    - If the major parent is applying for the minor parent, the minor parent's child is an optional AU member.
    - If the minor parent moves into the home of the major parent and must be included in the AU with his/her siblings, the minor's child is optional.

NOTE: If the minor parent opts to exclude the child, the child cannot be eligible for a separate grant.

- The income of a parent who is not a Families First recipient but with whom the minor parent resides is deemed to be available to the minor parent who requests Families First.
- The income of the minor's spouse in the home must be considered available in its entirety to the minor (the AU which includes the minor).
- The child of a minor must meet all Families First eligibility requirements if included in the AU. If both parents live in the home, one parent must be incapacitated or be an unemployed parent.

A minor parent who marries during the receipt of assistance may choose to exclude the new spouse from the AU for 3 full months, regardless of income. Following the 3 months, the AU must meet TANF eligibility requirements to continue to receive assistance. The count of the 3 months begins the month following the month of marriage. (see Marriage During Receipt of Assistance.)

Construction of the AU:

- Begin the construction of the assistance unit with the child(ren) for whom Families First is requested.

- Add the child's technically eligible whole, half, and /or adoptive sibling(s).

- Add the child's technically eligible parent(s), including an incapacitated parent or an unemployed parent, living in the home.

Optional AU Members Include:

- Grantee relative other than a parent, e.g. grandparent, aunt, uncle, or other relative within the specified degree of relationship who:

  - Provides a home for the child.
  - Exercises primary responsibility for the care and control of the child.
  - Asks to be included.
  - Is otherwise eligible.

  Consider the relative's income and all of the income of the relative's spouse, if the spouse lives in the home, as available to the AU. If the AU is eligible (when the relative's spouse's income is included,) the relative can be included in the AU. If the relative is included, his/her resources must be considered as available to the AU. If the income causes ineligibility, the relative should be advised that his/her income will make the AU ineligible. Eligibility for the AU can be determined without the relative and his/her spouse.

- Stepparent living in the home with the child when a natural/adoptive parent in the home is incapacitated, or when the stepparent is the only relative in the home who meets the

requirements as a caretaker. (For instructions on how to budget stepparent income, see the Treatment of Income Chapter, Section heading Stepparents and Parents of Minor Children.)

- Parent of a minor parent. When the minor's parent is in the home, but is not requesting assistance for the minor or any half or whole sibling(s) of the minor parents, the minor parent may apply for assistance. Income of parents in the home will be deemed to the minor's AU.

- Spouse Married during the Receipt of Assistance for the first 3 months after the marriage. When a caretaker marries during the receipt of assistance, the caretaker may choose to include or exclude the spouse for the first three months after the marriage. After the first three months have passed, the new spouse is a mandatory member of the AU. The count of the 3 months begins the month following the month of the marriage. (see Marriage During Receipt of Assistance.)

SSI Caretakers:

A parent or other caretaker relative of a child who receives SSI and the SSI child is the only child in the home may be included in the AU if:

- The SSI child meets Families First technical eligibility requirements.

- The parent/specified relative of the SSI child meets Families First income/resource eligibility criteria.

- Both parents in the home with an SSI child may be included in a Families First AU if at least one parent is incapacitated or is an unemployed parent.

- A stepparent may be included with the SSI child's parent if the parent is incapacitated.

- A specified relative (e.g. a grandparent) who meets requirements as a caretaker may receive Families First as caretaker of an SSI child. The spouse of the caretaker relative is not eligible to be included in the AU.

The following individuals must be excluded from the AU:

- Individuals (adults and children) who receive SSI benefits.

- Unenumerated individuals or any individual who does not meet a technical eligibility requirement.

- Individuals sanctioned for failure, without good cause, to cooperate with the minor parent school attendance requirement.

- Individuals disqualified for Intentional Program Violations.

- Individuals whose alien status does not meet eligibility requirements.

- Aliens who would be included but are ineligible due to the deemed income or resources of their sponsors, or due to sponsorship by an agency or organization.

- Individuals who have been sanctioned for failure to cooperate with Child Support (IV-D) or work requirement.

- Individuals who are convicted or who enter a guilty plea or plea of nolo contendere in a federal or state court for having made a fraudulent statement or representation with respect to the place of residence in order to receive assistance simultaneously from two or more states.

- Fleeing felons – individuals who have knowledge that they are or could be wanted for a felony level criminal act and have taken or are in the process of taking action to avoid prosecution (see Procedures section for further discussion).

- Individuals who are convicted (under Federal or State law) of any felony offense which occurred after August 22, 1996 which has as an element of the offense the possession, use, or distribution of a controlled substance, unless they meet the criteria listed in the Exceptions section in this chapter.

  - Individuals who are convicted of Class A felonies including the manufacture, possession, sale, or distribution of a controlled substance, are **not** eligible to be included in the grant under any circumstances.

EXCEPTIONS

- **Emancipation** of a minor by court order or any other action has no effect on a person's status as a minor for Families First purposes.

- **Different sets of children living in the same home** (e.g., a mother and her children plus her two nephews who are siblings must be in separate assistance units).

- **Legal Guardians** or custodians may receive Families First for a child only if the guardian is within a specified degree of relationship to the child.

  - If a child lives with a specified relative who has a legally appointed guardian or custodian,, the guardian/custodian must file the application and be named payee for the grant.
  - A guardian/custodian may file an application on behalf of a dependent child and be appointed payee for the grant. The child must, however, live in the home of a specified relative to be eligible.

- Convicted Drug Felons may be eligible to receive Families First if the felony has **NOT** been classified as a Class A felony involving the manufacture, possession, sale, or distribution of a controlled substance, **and** the convicted individual:

  - Is complying with, or has already complied with, all obligations imposed by the criminal court, including any substance abuse treatment obligations; **and**
  - Is currently participating in a substance abuse treatment program approved by the Department of Human Services; **or**
  - Is currently enrolled in, and/or on a waiting list for, an approved substance abuse treatment program approved by the Department of Human Services, as long as he/she enters the treatment program at the first available opportunity; **or**

- Has satisfactorily completed a substance abuse treatment program approved by the Department of Human Services; **or**
- Has been determined by a treatment provider licensed by the Department of Health, Division of Alcohol and Drug Abuse Services, not to need treatment according to TennCare guidelines.

NOTE: An approved substance abuse treatment program is one that has been licensed by the Tennessee Department of Health. A listing of such programs may be found on the Department of Health's website at www.state.tn.us/health. If the individual received treatment in a state other than Tennessee, this definition would extend to a substance abuse treatment program licensed or approved by the appropriate state agency in the state where the individual received treatment. **Other treatment programs not covered in this definition may be considered on a case-by-case basis by contacting the Families First Policy Section in the State Office.**

GOOD CAUSE

Not applicable.

VERIFICATION

All required verification must be in writing. Relationship must be established. Verifications are required which establish the relationship of the child to the caretaker/caretaker relative. Eligibility cannot be established until it is proven that the child for whom assistance is requested is within the specific degree of relationship. Verification may include:

- Marriage license/divorce decrees.
- Birth certificates.
- Doctor's/mid-wife's statement.
- Paternity orders.
- Statement from individuals in a position to know.

The Classification of the Drug Felony status must be established before eligibility can be established. The specific violation may be verified by one of the following:

- A certified copy of the Judgment from the court.
- Probation/Parole documents.

DOCUMENTATION

Record the relationship of every individual to every other individual in the AU in the eligibility and case management system. The verification field must contain the source of documentation. The caretaker relative field must be answered to specify inclusion or exclusion of the non-parent caretaker in the AU.

Document the eligibility and case management system to include:

- The classification status of the Drug Felony.
- The conviction date of the felony.
- The details to fully explain whether or not the individual is included/excluded in the AU and how this was verified.

The eligibility and case management system should be documented to complete or clarify any verification needed to establish eligibility.

PROCEDURES

- Enter all individuals in the eligibility and case management system record.
- Enter the relationship of each individual to every other individual.
- Specify the caretaker.
- Explain options to the caretaker about inclusion/exclusion of individuals.
- Secure verifications and document record.

SPECIAL PROCEDURES FOR FLEEING FELONS

An individual must be given the chance to clear up a fleeing felon charge and demonstrate, if possible, that the charges are no longer, or were never valid. This opportunity must be given regardless of whether he/she is learning about the felony for the first time from the Department or whether it was reported/verified from another source that he/she has previous knowledge of the charge (see individuals who must be excluded from the AU section for definition).

When you are notified that someone is or may be a fleeing felon, contact the individual **prior to** taking action on the case. If the individual denies that he/she is a fleeing felon give him/her the opportunity to:

- View the evidence that has been received about his/her felony status.
- Provide evidence that the warrant, indictment or other instrument charging the individual with a felony has been satisfied, retired, never existed, or that an error has been made that would make a denial of eligibility for fleeing status inapplicable.

In order to provide coverage for other AU members, it may be necessary to take action on the case prior to the resolution of the individual's fleeing felon status. In these situations, approve the case without including the individual charged with being a fleeing felon. If the issue is resolved in the individual's favor at a later date, restore benefits back to the date he/she would have been eligible had the fleeing felon issue not been a factor.

UNSTABLE ASSISTANCE UNITS

POLICY STATEMENT

Frequently, a relative other than the parent of a child requests and receives Families First for that child. The relative may be included in the AU if he/she meets requirements as caretaker. From time to time the child's parent comes into the home but does not stay for long periods of time. When this occurs, the caseworker must consider whether changes in the AU are needed.

GOOD CAUSE

There is good cause to have both a non-parental caretaker and a parent (2 adults) in the AU when it is determined that the parent is in and out of the home and the non-parental caretaker relative continues to maintain a home and assumes primary responsibility for the care and control of the child.

VERIFICATION

When a non-parental caretaker relative is receiving assistance for a child and the child's parent returns to the home, verify that both the non-parental caretaker and the parent are in the home. To the extent possible, verify the plans of the parent to return or remain in the home.

DOCUMENTATION

Document in the eligibility and case management system the composition of the assistance unit and the parent's plans about remaining in the home. A full explanation of the decision to include the parent in the non-parental caretaker's case or to close that case and open another case with the parent as caretaker is needed.

PROCEDURES

- Determine who is providing a home and who has primary responsibility for the care and control of the child.
  - Determine the pattern of the parent's absence(s) from and return(s) to the home.
  - Determine whether this particular return is likely to be relatively permanent (3 to 6 months).
- If it is determined that the parent has returned to assume parental rights/responsibilities and is requesting continued Families First for herself and her child(ren):
  - Close the caretaker relative's case.
  - Open a new case in the parent's name and determine eligibility and develop a Personal Responsibility Plan.
- If it is determined that the parent is likely to leave again:
  - Continue the case in the grantee relative's name.
  - Add the parent to the existing AU as a 2nd adult if otherwise eligible to be added.
  - Include any income/resources the parent has in the AU's eligibility determination.
  - Complete a Personal Responsibility Plan for the parent, including a work activity, unless exempt.

  - Set an expected change prior to the next renewal to determine whether changes have occurred which affect on-going eligibility.

- A child support referral must be made during any absence of the parent.

PREGNANT WOMAN ONLY CASES

POLICY STATEMENT

A Families First assistance unit may consist of a pregnant woman only when:

- There are no living eligible children in the home.
- It is medically verified that the woman is at least in her sixth month of pregnancy.
- The woman and child (if born) would meet all other eligibility criteria (i.e., the unborn is deprived of parental support, etc.).
- The pregnant woman is not a minor whose parent is in the home and is receiving Families First for the pregnant minor's sibling(s).

The pregnant woman must have a Personal Responsibility Plan, including a work activity unless exempt. Pregnancy does not exempt the woman from work; however, conditions associated with her pregnancy may cause a temporary incapacity which would exempt her from work.

VERIFICATION

The pregnancy must be verified by:

- A statement of a licensed physician or osteopath.
- A statement by medical personnel in a public health clinic or an in-patient hospital clinic.

The verification must include:

- Verification of pregnancy.
- Estimated date of conception.
- The current estimated month of pregnancy.
- The signature of the person who provided the verification including the name, and/or location of the clinic, doctor's office, etc.

DOCUMENTATION

The eligibility and case management system record should contain documentation and verification of the pregnancy and the anticipated day of birth.

PROCEDURES

- Authorize a medical examination for any woman who cannot secure verification of her pregnancy.
- If the woman is receiving Medicaid as a pregnant woman, she must complete an application for Families First as she approaches the 6th month of pregnancy.
- Complete the Personal Responsibility Plan, including the work activity, at the time of the application for cash benefits.
- If eligible, authorize the benefits for a one-person-only cash payment.
- Terminate Families First if the pregnant woman aborts, miscarries, surrenders the child for adoption, or if the child is placed in foster care when born.

MINOR PARENTS

POLICY STATEMENT

A minor parent may apply for Families First for his/her child. However, if the minor parent lives in, or moves into, the home with a parent or a caretaker relative who is applying for, or receiving assistance for, at least one child that is a half or whole sibling of the minor parent, **the minor parent and the child(ren)** of the minor parent **for whom he/she is applying**, must be included in the AU with the minor parent's parent. **NOTE:** See the "Mandatory AU Members Include:" section in this chapter for further discussion on when the minor parent's child is included/optional.

A minor may apply for, and receive Families First for, siblings or other relatives to whom he/she is within the proper degree of relationship, if the minor is providing a home for the child. The minor relative may be included in the AU if he/she meets requirements as caretaker. The minor parent who receives assistance for his/her child and receives assistance for siblings will have two AUs. The minor will be included in the AU with his/her own child.

Living Arrangement Requirement:

A Families First applicant under the age of 18, who has **never been married** and is pregnant or has a dependent child in his/her care, **must live in the home with** his/her parent, legal guardian, other adult relative, or a foster home, maternity home, or other supportive living arrangement supervised by an adult, as a condition of eligibility for the minor and his/her child.

School Attendance:

- A minor parent (less than age 18) who is an eligible child in his/her parent's AU, has not completed high school or does not have a GED, and whose child is 16 weeks of age or older, must attend high school, GED classes, or an alternative educational or training (cont.) program that is approved by the Department.

- The failure of a minor parent who is an eligible child in his/her parent's AU to attend school will result in the removal of the minor's needs from the AU.

- The failure of a minor parent who is the caretaker of his/her own AU to attend school or participate in a 30 hour work requirement will result in a full family sanction.

Work/work Preparation Requirements:

There is no work requirement during the school year other than attending school, unless the minor caretaker chooses to participate in the 30 hour work requirement. There is no work requirement during the summer and or school breaks as long as the minor intends to return to school.

EXCEPTIONS

The minor parent is **not required to live in the home** of a parent, legal guardian, adult relative, foster home, maternity home, or other supportive living arrangement when:

- The Department determines after investigation that there is a good cause for the separate living arrangement and the health or safety of the applicant or the dependent child(ren) would be jeopardized if they were required to live in one of the arrangements specified.

- The person applying for assistance has no parent, other adult relative, or legal guardian whose whereabouts are known.

- No parent, other adult relative, or legal guardian of the applicant allows the applicant to live in his/her home.

GOOD CAUSE

Good cause for a separate living arrangement must be explored with the minor parent applicant. Good cause reasons may include, but are not limited to, such situations as illegal substance abuse, abuse of alcohol, physical or mental abuse of the applicant or child, serious overcrowding in the home, or dangerous or potentially dangerous physical environment. Caseworkers must use "common sense" judgment when making this determination.

When good cause is not established, the minor parent and child(ren) are ineligible.

VERIFICATION

- Verify the living arrangement of the minor parent.

- Verify any good cause claim.
- Verify school attendance or good cause for not attending school.
- Verify relationship of all individuals to all other individuals in the home.

DOCUMENTATION

- The case management and eligibility system record must identify all individuals in the home and the verification of their relationship to each other.
- The minor parent screen must be complete. If the minor parent is not living with a parent, relative, or guardian, the record must contain documentation supporting good cause or failure to meet good cause.
- The record must have verification of school attendance or documentation to support good cause.

PROCEDURES

- Identify and record all members of the AU's household.
- Establish the minor parent's living arrangement criteria.
- Determine if good cause is met when the minor parent does not meet the living arrangement criteria.
- Verify school attendance or good cause for not attending.

When a minor parent meets the requirement or has good cause for failing to meet the requirement:

- Include the minor and his/her child(ren) in the AU when the minor's parent in the home does not receive Families First or when the minor has been determined to meet the criteria for maintaining a separate residence. If the minor's parent receives Families First for the minor's sibling(s), the minor will be included in the parent's AU.
- Deem the income of the non-recipient parent living with a minor parent applicant/recipient as available to the AU.
- Name a payee to receive the minor parent's grant when:
  - The minor parent is age 14 or under.
  - The minor parent lives with a parent, other adult relative, or a legal guardian.
  - The services of a payee are needed to assist the minor in managing the cash payment.
- Establish protective payee when appropriate.
- Develop the Personal Responsibility Plan activities.

FAMILY CAP

POLICY STATEMENT

A Family Cap prohibits an increase in the cash payments when a newborn is added to the assistance unit. It is applied when:

- The AU has applied for Families First and the birth occurs more than ten (10) calendar months **after** the application month.

- The AU has applied, has stopped receiving assistance, has subsequently reapplied, been determined eligible and the birth occurs more than ten (10) calendar months **after** the reapplication month.

  EXCEPTION: The Family Cap may also be applied to a child born after or during a period of ineligibility but within 10 months of the reapplication. The criteria for application of this policy are discussed later in this chapter.

  When the Family Cap is applied to a newborn, the AU's cash payment will not exceed the maximum assistance payment for the AU without the new child. For example, if the AU consists of a mother, her son and a Family Cap child, the cash payment will not exceed the maximum payment amount for a two-person AU. The Family Cap will not affect other increases in benefits, as long as the increase does not exceed the maximum assistance payment for the AU without the newborn.

- Though the Families First payment will not be increased, a Family Cap child is a member of the assistance unit in all other aspects. Therefore, the Family Cap child:

  - Will be included in determining the GIS and the CNS amounts for the AU.
  - Is subject to child support, enumeration, immunizations, school attendance, and all other eligibility requirements.

- Child care is provided for the Family Cap child if necessary for the participant to meet her work requirement.

- The Family Cap policy applies to children born to a woman who:

  - Is a member of the assistance unit.
  - Would have been a mandatory AU member except for technical ineligibility, such as a SSI recipient or illegal alien.
  - Conceived **during** receipt of assistance.

- Family Cap policy applies to both single parent and two-adult assistance units.

- Family Cap still applies when the non-Family Cap children leave the home or age-out leaving only the Family Cap child and the EA caretaker. The maximum grant would be the amount for the caretaker only.

- Family Cap still applies when the parent is a NA caretaker, such as a SSI recipient, and the non-Family cap children leave the home or age out leaving only the Family Cap child and the caretaker. The Families First grant would be $0, but the case would remain open.

When to apply the Family Cap

- An AU child is subject to a Family Cap when the AU has applied and has received continuous Families First cash payments for more than ten (10) calendar months when the birth occurs. **The 10-month count begins the month after the application month.**

  EXAMPLE: The caretaker applies on 9/10/97 and receives Families First benefits for herself and one child continuously since that date. On 9/21/98, she reports that she has given birth to another child on 9/3/98.

First month in the count is	October 1997
Tenth month in the count is	July 1998
The first month the family cap will apply	August 1998

  Action on case: This child will be added to the AU but since 10 months have passed since the application month, the **grant will not be increased** to an amount greater than the maximum grant for a two-person AU.

  EXAMPLE: The caretaker applies 10/10/97 and receives Families First benefits for herself and one child continuously since that date. She reports that she has given birth to another child on 7/7/98.

First month in the count is	November 1997
Tenth month in the count is	August 1998
The first month the Family Cap will apply	September 1998

  Action on case: This child will be added to the assistance unit and **the grant will be increased** to include the caretaker and two children since the birth occurred within 10 months of the application month.

- When a minor mother who has her own Families First case turns 18 or leaves the major mother's household, the original family cap date follows her to her new case if there has been no lapse in benefits.

  EXAMPLE: An active Families First AU has an application date of 9/17/97. The AU consists of a major mother, major mother's child, a minor mother and the minor mother's child. The minor mother moves out of the household on 12/13/97 and is removed from the AU effective 12/31/97. The minor mother reapplies in her own case on 12/30/97 and is approved 1/15/98. There is no lapse in benefits.

First month in the count is	October 1997
Tenth month in the count is	July 1998
The first month the Family Cap will apply	August 1998

EXAMPLE: An active Families First AU applies 9/17/97. The AU consists of a major mother, a minor mother and the minor mother's child. The minor mother turns 18 and applies for Families First in her own name. Her Family Cap date will remain the same even though there is a new Families First AU.

First month of the count is	October 1997
Tenth month of the count is	July 1998
The first month the Family Cap will apply	August 1998

- For an AU that has reapplied for Families First cash payments, **the ten-month count will begin with the month after the reapplication month** unless there has been no gap in eligibility for the AU.

EXAMPLE: The caretaker applies on 9/17/97 and receives Families First benefits for herself and one child. The AU is subsequently closed on 11/1/97 effective 11/30/97. The caretaker reapplies and is approved on 11/24/97. The caretaker later reports that she has had another child born on 8/17/98. Since there was no period of ineligibility in this case, the continuous receipt of benefits still applies.

First month in the count is	October 1997
Tenth month in the count is	July 1998
The first month the Family Cap will apply	August 1998

Action on case: This child will be added to the AU **but the grant will not be increased** to include the second child since the birth occurred more than ten months after the initial application month.

EXAMPLE: The caretaker applies on 9/17/97 and is approved for Families First benefits. The AU is subsequently closed effective 11/30/97 because of excess income. The caretaker reapplies on 1/4/98. The caretaker reports that her child was born 12/17/98. There was a gap in the receipt of benefits. Therefore, the month following the reapplication month is the first month of the 10-month count.

First month of the count is	February 1998
Tenth month in the count is	November 1998
The first month the Family Cap will apply	December 1998

Action on case: This child will be added to the AU, and **the grant will not be increased** since the birth occurred more than 10 months after the reapplication month.

EXAMPLE: The caretaker applies on 12/17/97 and is approved for Families First benefits. The AU is subsequently closed effective 2/28/98 because of excess resources. The caretaker reapplies on 4/4/98. The caretaker reports that her child was born on 12/17/98.

First month in the count is	May 1998
Tenth month in the count is	February 1999
The first month the Family Cap will apply	March 1999

Action on case: The child will be added to the AU, and **the grant will be increased** since the birth occurred within 10 months of the application month.

- Family Cap will be applied to a child born after or during a period of ineligibility but within ten (10) months of the **reapplication** month when:

  - A woman becomes pregnant while receiving Families First; **AND**
  - The AU was closed prior to the child's birth; **AND**
  - The child was born more than 10 months after the previous application month; **AND**
  - The reason for closure was non-cooperation with Departmental policies and rules which include:

    - Failure to cooperate with Child Support without good cause.
    - Failure to fulfill Personal Responsibility Plan provisions and requirements.

      EXAMPLE: The AU applies for Families First on 7/1/99. The AU is approved and the woman becomes pregnant in 9/99. The Families First AU is closed effective 5/1/00 due to failure to comply with a work activity without good cause. The child is born on 6/3/00. The client reapplies on 7/3/00 and is approved. The Family Cap is applied to the newborn because:

      - The woman became pregnant while receiving Families First.
      - The case was closed prior to the birth.
      - The child was born more than 10 months after the previous application month.
      - The AU was closed because of failure to comply with a work activity without good cause.

When the Family Cap Has Been Applied:

Once the Family Cap has been applied to a child, it will continue until the case is closed. When an AU that has had the Family Cap applied to an AU child closes, Family Cap **will be continued** upon **reapplication** when the AU was closed for a sanction due to non-cooperation with the following Departmental policies and rules:

- Failure to cooperate with Child Support.

- Failure to fulfill Personal Responsibility Plan provisions and requirements.

NOTE: These PRP provisions and requirements apply to work requirements and to the immunization, health check, and school attendance agreements. Though non-compliance with the latter agreements doesn't cause case closures, if at the time of closure, a non- compliance is discovered in these areas or a 20% grant sanction is already in place, the Family Cap will continue at reapplication.

EXAMPLE: The Families First AU is closed effective 9/30/98 due to failure to comply with a work activity. The caretaker reapplies for benefits on 12/15/99 and is approved.

Action on case: The Family Cap continues to apply to this case because the closure was due to failure to comply.

EXCEPTIONS

- Do not apply Family Cap to a child who was born more than 10 months after the application month, but was **conceived prior to the application for assistance**. Obtain a physician's statement to prove conception occurred prior to the application date.

- Do not apply Family Cap to a child born to an AU between periods of eligibility unless:

  - The child was **conceived during receipt of assistance; and**
  - The case closed prior to birth; **and**
  - The child was born more than 10 months after the previous application month; **and**
  - The reason for closure is deemed to be non-cooperation with Departmental policies and rules.

- Do not apply Family Cap to the first child born to a minor in an assistance unit even if the pregnancy occurs after receipt of assistance.

- Do not apply Family Cap to children, other than newborns, who join the assistance unit. For example, when a child who has been residing with another relative rejoins the assistance unit. The Families First grant payment will be increased as a result of adding the child.

- Do not apply Family Cap to a child who is born to an assistance unit member as a result of incest or a verified rape.

VERIFICATION

- Verify the newborn's date of birth.

- Verify the child's conception date if the child is born more than 10 months after the application or reapplication month. A physician's statement of the conception date is acceptable proof.

- Verify rape or incest if the individual is claiming good cause for exemption to the Family Cap provision. Doctor's statements, court records, supporting statements from protective services, are examples of verification for granting good cause.

DOCUMENTATION

- Document circumstances regarding the newborn – when reported, how verified, etc.

- Document whether or not Family Cap applies to the newborn.

- Document good cause or exemptions to the Family Cap provision, if applicable.

- Document the reasons why the Family Cap provision will or will not be applied to an AU in a new period of eligibility when Family Cap was applicable in a previous period of eligibility.

PROCEDURES

- When a newborn to the assistance unit is reported, determine if Family Cap applies to the newborn. If the Family Cap provision **does not apply**:

  - Add the newborn to the AU, if otherwise eligible.
  - Provide benefits to the AU including the newborn.

- If the Family Cap provision **does apply**:

  - Add the child to the assistance unit per all other eligibility requirements.
  - Determine eligibility for the AU using the gross income standard (GIS) and the consolidated need standard (CNS) for the assistance unit size including the newborn. Cap the maximum payment at the standard for the assistance unit size not including the newborn.

  EXAMPLE: The AU consists of the caretaker and one child. The caretaker reports the birth of a child for which Family Cap applies. The AU has SS income and, if the newborn were added to the payment amount, the AU would be eligible for $160. $160 exceeds the maximum grant amount for the AU size minus the Family Cap child. Therefore, the AU would only be eligible for $142, the maximum two-person grant amount.

  EXAMPLE: The AU consists of the caretaker plus two children plus one Family Cap child. In looking at the GIS and the CNS for an AU of four, this particular AU, based on their income, would have been eligible for a grant of $175. $175 is less than the maximum grant amount ($185) for the AU size minus the Family Cap child. Therefore, they would receive the $175 grant amount.

- When an assistance unit that has a Family Cap closes and later reapplies, evaluate the AU to determine if the Family Cap should apply to the new period of eligibility.

MARRIAGE DURING RECEIPT OF ASSITANCE

POLICY STATEMENT

Families First encourages marriage.

- Recipient caretakers who marry during the receipt of assistance may choose to exclude the new spouse from the AU for three full months, regardless of income. Following the three months, the AU must meet FF eligibility requirements to continue to receive assistance. Should the client choose to waive the three month exclusion, the AU must meet FF eligibility requirements, including those regarding two-parent families, to continue to receive assistance. The three month exclusion starts on the first day of the month after the month of the marriage, regardless of when the marriage is reported.

When the Caretaker Elects to Include the Spouse as an AU Member:

- When the option is made to add the spouse, calculate the Families First budget using the countable income of all assistance unit members including the spouse.

- Add any of the spouse's children who:

  - Reside with the spouse.
  - Are mandatory AU members (siblings, half-siblings, stepsiblings, etc.).

  Include any countable income and resources of the children. The children must meet all eligibility requirements.

- Use the gross income standard, the consolidated need standard, and the maximum payment standard for the new assistance unit size, including the spouse, to determine the assistance payment.

- The spouse, unless exempt, will be subject to work requirements and sanction provisions.

- Resources of the spouse will be considered available and, therefore, countable to the assistance unit. The spouse must meet enumeration, citizenship, and all other eligibility provisions.

When the Caretaker Elects to Exclude the Spouse as an AU Member:

- If the option is chosen to exclude the new spouse from the assistance unit, determine group eligibility as if the spouse was not in the home. This is true even if the spouse is the father of an AU child.

- Do not include the income and resources of the spouse in the eligibility determination for Families First.

- Any children who moved into the home with the spouse at the time the marriage occurred must be considered for addition to the assistance unit using assistance unit policy.

- If the assistance unit closes while the spouse is excluded, the excluded spouse will not be eligible for TCC.

Liability of Spouse's Federal or State Share of Court Ordered Child Support Arrearages:

The spouse who marries a Families First caretaker will continue to be liable for the federal or state share of court ordered child support arrearages that are owed to an AU child whether the caretaker opts to include or exclude the new spouse.

Two Families First Caretakers Marry:

Both the caretaker and the spouse will continue to be eligible as separate assistance units when:

- The caretaker marries an individual who is also receiving Families First cash payment.

- There is no common child.

If there is a common child, then both assistance units will be combined into one AU. The designation of the caretaker is the decision of the adults in the AU.

NOTE: Since time limits are attached to the caretaker, the time limit count will depend on which adult is designated as the caretaker.

In some instances, one spouse is not receiving Families First, but is grouped as a separate AU because there is no common child. In these instances:

- The new spouse can elect to join the caretaker's AU.

- Both AUs can receive assistance separately, as double stepparent AUs.

EXCEPTIONS

Marriage during the receipt of assistance does not apply to:

- Initial applications, because the marriage must take place while the caretaker is receiving assistance.

- Cases that have closed and are re-applying, for the same reason as that cited above.

- Couples who are married at the time of application.

- Spouses who have been out of the home and are returning.

NOTE: If a couple who has been legally divorced remarry during the receipt of assistance, the marriage during the receipt of assistance policy would apply.

GOOD CAUSE

There are no good cause provisions to the **marriage during the receipt of assistance policy.**

VERIFICATIONS

The following verifications are required when the spouse is included in the assistance unit:

- Proof of marriage.
- Proof of divorce (if remarrying an ex-spouse).
- Proof of relationship of the spouse's children to the spouse or to existing assistance unit members.
- Proof of income if the new spouse will be included in the AU.
- All other pertinent eligibility factors including, but not limited to, proof of social security numbers, citizenship, and resources of the spouse and any mandatory children.

DOCUMENTATION

When the marriage occurs during the receipt of assistance, clearly document the following information:

- The date the marriage occurred.
- The date the marriage was reported to the agency.
- The new spouse's income.
- The decision of the caretaker to include or exclude a spouse in the AU and the date.
- The supporting verification related to the addition of the spouse.
- All other eligibility factors including, but not limited to, proof of social security numbers, citizenship, and resources of the new spouse and any mandatory children.

PROCEDURES

Explain the options available to the caretaker at the time the marriage is reported.

CARETAKER – SSI CHILD

POLICY STATEMENT

When application is made for Families First for an assistance unit which includes a child(ren) who is an SSI beneficiary, the presence of the SSI child(ren) may be taken into account for purposes of qualifying for the caretaker and second parent for Families First. In such cases, this child(ren) would be the only eligible child(ren) in the home, if he were not receiving SSI.

In this situation, the SSI child beneficiaries are determined to be "needy" for purposes of making the caretaker and second parent eligible for Families First since SSI is a means tested program. The child(ren) must meet all other eligibility factors such as age, residence, deprivation, etc. and the caretaker (and second parent, if any) must meet all eligibility requirements. The income and resources of all responsible relatives must be taken into consideration. However, the needs, income, and resources of the SSI recipient would not be considered. If eligibility is determined, a grant will be authorized only for the caretaker or caretaker and second parent.

SSI child- caretaker cases are not subject to IV-D requirements; i.e. absent parents of the SSI child are not referred to IV-D and child support paid on behalf of an SSI child is not assigned.

ENUMERATION

POLICY STATEMENT

Enumeration is the procedure by which the Social Security Administration (SSA) in cooperation with the Department assigns and/or verifies Social Security numbers (SSN) for Families First applicants/recipients.

- Each applicant/recipient included in the AU must furnish his/her Social Security account number (SSN) or numbers if more than one number has been issued.

- If an individual does not have a Social Security number or does not know the number, he/she must apply for a number prior to being approved for benefits or prior to being added to an existing AU.

- If the caretaker fails or refuses to enumerate a mandatory assistance unit member, then that individual is technically ineligible and must not be included in the assistance unit.

EXCEPTIONS

There are no exceptions to enumeration for individuals requesting eligibility for Families First. All AU members must have a Social Security number or apply for one.

GOOD CAUSE

There are no good cause provisions for failure to provide or apply for a Social Security number.

VERIFICATIONS

- The applicant/recipient must present the Social Security card for all members who must be included in the AU or who desire to be included in the AU, or

- The applicant/recipient must present other forms of acceptable evidence of the Social Security number for all members who must be included in the AU or who desire to be included in the AU, or

- The caseworker may verify the Social Security number through the SDX, Bendex, or wire-to- wire matches, or

- If the applicant/recipient does not have a Social Security number for an individual who must be included in the AU or who desires to be included in the AU, the applicant/recipient must complete an SS5 for the individual requiring a Social Security number. The SS5 is completed by the caseworker and forwarded to the Social Security office along with the original documents verifying age, identity, and citizenship of the individual. If the individual chooses to provide the verifications to the Social Security Office, he/she may do so, but the application for a Social Security number is not complete until the verifications are provided.

- If the individual states that an application for a number has been made with the Social Security Office, or if the applicant/recipient insists on applying for the number directly with the Social Security Office, the application/recipient must provide proof of application to the caseworker prior to approval. Form SSA 5028, Receipt for Application for a Social Security Number, is acceptable for a number.

DOCUMENTATION

The eligibility and case management system file must contain:

- The Social Security number and the source of verification, or

- The date the Social Security number was applied for and the verification that application was made, and,

- Any supporting statements needed to clarify the actions taken.

A newborn must have a Social Security number or an application for a number prior to being added to the AU. Babies who are enumerated during the hospital enumeration at birth process are considered enumerated and the case file should be documented to reflect such.

PROCEDURES

The applicant/recipient should be given the following information:

- Furnishing a Social Security number or applying for a number is a condition of eligibility.

- Failure to furnish the number or apply for the number will result in ineligibility of the individual.

- The Social Security number will be used in the administration of the Families First (as well as Food Stamps and Medicaid) program.

- The Social Security number will be used to check other government records that may impact Families First eligibility such as IRS, Wage records, Unemployment Compensation, Social Security and SSI benefits.

RESIDENCE

POLICY STATEMENT

As a condition of eligibility, a Families First assistance unit must reside in Tennessee. Families First does not have a county residence requirement; however, the application is to be filed in the county of residence for processing purposes.

- A resident is one who is:
  - Living in the state (or county) voluntarily with the intention of making his/her home here and not for a temporary purpose (persons in the state or county for visits or vacations are not residents); and
  - Living, at the time of application in the state (or county), not receiving benefits from another locality, and has entered the state (or county) with a job commitment; or
  - Seeking employment (whether or not currently employed). This definition enables migrant and itinerant workers and their families to establish residence in the location where they came for employment purposes.

- No individual may receive benefits as a member of more than one assistance unit, in more than one county or state, within the same month.

- There is no durational residency requirement for Families First.

EXCEPTIONS

- Temporary absences from the state with subsequent returns, or intent to return once the purpose of the absence has been accomplished, do not terminate residence.
  - When a recipient of Families First notifies the Department that he is leaving the state temporarily, the caseworker will need to determine if the assistance should be continued. The caseworker will determine if the AU continues to maintain an identifiable residence in the State and if there are plans to return to the residence and if the AU has applied for or is receiving assistance in the state where the AU presently is visiting.
  - If the absence appears to be temporary, usually not to exceed three months, and the plan is to return to the residence, assistance will be continued.
  - There are instances when the child may be absent for a longer period of time or have long-term specific absences from the home. For example, a child may be in a school that requires the child to reside out of the home, but the caretaker provides for the child and maintains care and control of the child.
  - If the absence appears to be permanent, or there is not a plan to return to the state or the AU has applied for/is receiving assistance in the other state, assistance will be discontinued.

- When it is determined that the assistance unit is temporarily in another county but the AU retains their residence, assistance may continue in the county of residence.

- When it is determined that the assistance unit has moved their residence to another county within the state, the assistance unit case must be transferred to the new county of residence.

VERIFICATIONS

- Evidence of the applicant's/recipient's residence at the time of application and at redetermination, if questionable, is required.

- Verification of residence may be achieved through driver's license, rent receipt, utility bills, other bills, voter registration card, collateral contacts, etc.

- If different addresses are reported for an AU, verification of residence must be obtained.

DOCUMENTATION

- The eligibility and case management system should contain the physical address of the applicant/recipient and the mailing address, if different.

- The eligibility and case management system should also contain the living arrangement code that is appropriate for the assistance unit.

- Any discrepancies reported and the subsequent findings about the place of residence should be recorded in the eligibility and case management system.

PROCEDURES

- Determine the place of residence during the application/redetermination or reported change.

- Establish verifications as needed.

- When absences are reported, determine the duration and intent of the absence and determine whether to close or continue assistance.

- Close AUs that move out of state for reasons other than temporary absences, or when it is determined that the AU is receiving assistance in another state.

- Transfer cases that relocate to another county within the state. The transferred case must be reviewed in the new county of residence. At the time of the review, the Personal Responsibility Plan will be re-evaluated and re-negotiated.

CITIZENSHIP AND ALIEN STATUS

POLICY STATEMENT

To receive Families First, an individual must be a citizen or an alien lawfully admitted to the United States.

The citizenship or alien status of each assistance unit member must be acknowledged on the citizenship section of the application form (HS-0169).

The entire AU is ineligible for assistance if any adult applicant refuses or fails to sign HS-0169 or if the adult relative refuses or fails to sign for a minor in the AU.

An ineligible alien will be excluded from the Families First AU, but may receive a grant for children in his/her care, if they are eligible.

How citizenship is defined:

As a condition of eligibility to receive Families First benefits, an individual must be either a citizen of the United States (The United States is defined as the 50 states and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. In addition, nationals from American Samoa or Swain's Island are considered U.S. citizens for eligibility purposes); or an alien lawfully admitted under the conditions listed below:

- An alien lawfully admitted for permanent residence as an immigrant as defined in Sections 101 (a)(15) and 101 (a)(20) of the Immigration and Nationality Act. However, an alien lawfully admitted for permanent residence pursuant to Section 245A of the Immigration and Nationality Act must be eligible as specified in the paragraph below of this section that addresses aliens who are defined as aged, blind or disabled.

- An alien who entered the United States prior to January 1, 1972 or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship, but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the Immigration and Nationality Act.

- An alien who is qualified for entry pursuant to section 207 or 208 of the Immigration and Nationality Act;

  NOTE: Amerasians in Vietnam, with certain family members, are to be admitted under this section. They should possess INS documents with an identifier in the range of AM1 through AM3 or AM6 through AM8. In Families First these are treated as refugees. An Amerasian is an individual who was:

  - Born in Vietnam between January 1, 1962 and January 1, 1976.
  - Fathered by a U.S. citizen.

- Residing in Vietnam as of March 20, 1988 (the date of enactment of the Amerasian legislation).

Amerasian family members who can be admitted under Section 207 or 208 of the Act include: the spouse or child of an Amerasian if the spouse or child is accompanying or planning to join the Amerasian; and the Amerasian's natural mother and the spouse or child of the Amerasian's natural mother or the person who has acted as the Amerasian's mother, father, or next of kin and such person's spouse or child if the family member is accompanying or planning to join the Amerasian.

- An alien who is an Afghan and has been granted Special Immigrant Status under section 525 of Title V of the Consolidated Appropriations Act of 2008 as described in Section 101(a)(27) of the Immigration and Nationality Act (INA).

- An alien who is an Iraqi and has been granted Special Immigrant Status under the National Defense Authorization Act for Fiscal Year 2008, Section 1244 of Public Law 110-181 as described in section 101(a)(27) of the Immigration and Nationality Act (INA).

  NOTE: Spouses and unmarried children under age 21 of Afghan and Iraqi Special Immigrants who accompany or later join the Special Immigrant.

- An alien granted asylum through an exercise of discretion by the Attorney General pursuant to Section 208 of the Immigration and Nationality Act.

- An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212 (d)(5) of the Immigration and Nationality Act, or as a result of a grant of parole by the Attorney General.

- An alien living within the United States for whom the Attorney General has withheld deportation pursuant to Section 243 of the Immigration and Nationality Act.

- An alien who is defined as aged, blind or disabled in accordance with Section 1614 (a)(1) of the Social Security Act and is considered to be lawfully admitted for permanent residence pursuant to Section 245A (b) (1) of the Immigration and Nationality Act. Such aliens may obtain lawful permanent resident status under Section 245 (b) (1) of the Act no earlier than November 7, 1988.

- An alien who is, as of June 1, 1987, or thereafter, a special agricultural worker and lawfully admitted for temporary residence in accordance with Section 210 (a) of the Immigration and Nationality Act.

- An alien who is lawfully admitted for temporary residence as an additional special agricultural worker as of October 1, 1989 through September 30, 1993, in accordance with Section 210 (a) of the Immigration and Nationality Act.

- An alien who is a victim of trafficking.

The Trafficking Victims Protection Act of 2000 (TVPA) defines "Severe Forms of Trafficking in Persons" as:

- Sex trafficking: the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act is under the age of 18 years.
- Labor trafficking: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Victims of Trafficking are eligible for benefits to the same extent as refugees/aslyees. To be potentially eligible for Families First benefits:

- All adult victims of a severe form of trafficking must be certified by the Office of Refugee Resettlement (ORR) at Health and Human Services. HSS may certify as an adult victim of trafficking one who:

  - Is a victim of a severe form of trafficking as defined by the Trafficking Victims protection Act of 2000 (TVPA)
  - Is willing to assist in every reasonable way in the investigation and prosecution of the trafficking case.
  - Has made a bona fide application for a "T visa."
  - Has received continued presence status from the U.S. Customs and Immigration Services in order to contribute to the prosecution of human traffickers.

NOTE: The "T visa" is specifically designed for certain human trafficking victims who cooperate with law enforcement against those responsible for their enslavement. The statute allows victims to remain in the United States if it is determined that such victims could suffer extreme hardship involving unusual and severe harm if returned to their home countries. After three years in T status, trafficking victims may apply for permanent residency.

Adult victims of trafficking are not required to provide any documentation of their immigration status. Instead, ORR will make certification determinations and issue certification letters for adults who meet the certification requirements. Only ORR is authorized to issue these certifications

Child (under 18) victims of trafficking do not need to be certified in order to receive benefits. ORR will issue "letters of eligibility" for children.

- Accept the adult certification letter or letter of eligibility for children as proof of a status that confers potential eligibility for benefits.
- Call the **trafficking verification line at 1-866-401-5510** for verification before providing benefits.
- During this verification phone call, notify ORR of the benefits for which the trafficking victim has applied.
- Do not call SAVE to confirm eligibility as SAVE does not have information on trafficking victims.

- Do not deny an application due to difficulty confirming identity. Call the trafficking verification line at for assistance.
- The **entry date for victims of trafficking** is the certification date which appears in the body of the certification letter for adults and the letter for children.

Bulletin No. 35 (FA-07-16)

Establishing the Eligibility of Aliens:

- The initial criteria for determining an alien's eligibility is to establish the date of entry into this country and whether the alien is residing in Tennessee with the sponsorship of a public/private agency or an individual citizen. This policy applies to aliens, not refugees.

- The date of entry into this country by an alien can be established by viewing INS documents in the possession of the alien.

- An alien is ineligible for Families First for a five-year period beginning with the date on which the alien was granted lawful temporary resident status if the alien continuously resided in the United States illegally since before January 1, 1982, and was subsequently granted lawful temporary or permanent resident status by the Immigration and Naturalization Service (INS). The five-year disqualification provision does not apply to Cuban or Haitian applicants who have their immigration status adjusted to that of lawful temporary residents by the INS.

- Routine eligibility procedures will be applied to Families First assistance units that have been in the country for more than three years.

- Aliens applying for Families First that have been in the country for less than three years will have their eligibility determined according to their type of sponsorship.

Method of Verification of Alien Status:

Documentary evidence and the Systematic Alien Verification for Entitlements (SAVE) must be used to verify an alien's status.

Documentary Evidence:

- Immigration and Naturalization (INS) Form I-151 or I-551 (Alien Registration Receipt Card) or the Re-entry permit (a passport booklet for lawful permanent resident aliens).

- INS Form I-94, "Arrival Departure Record", which will be acceptable only if annotated with:

  - Section 207, 208, 212 (d)(5), or Section 243 (h) of the Immigration and Nationality Act.
  - An (S) indicating Haitian Nationals.
  - One or a combination of the following terms:

    - Refugee;

    NOTE: Soviet Jewish refugees will possess Arrival-Departure Records (I-94) which contain the following statement: "This refugee is sponsored by the Hebrew Immigrant

Aid Society and (name of local Jewish organization. Private resources are available. If public assistance is sought, please call (name of local agency) at (phone number)."

- Parolee or paroled;
- Conditional Entry or Entrant, or
- Asylum

NOTE: If an INS Form I-94 is annotated with the letters (A) through (L), this verification that the alien does not meet citizenship requirements for FS/FF purposes and is ineligible for benefits. If, however, the alien can present other documentation from INS that he does meet requirements, this will be acceptable.

- Passports stamped with the annotation "Processed for I-551" will be acceptable verification of eligible alien status.

- A U.S. Passport Card issued by the Department of Homeland Security, which is an alternative to a traditional passport book. The passport card is acceptable documentation for verifying the U.S. citizenship and identity of the bearer, but it may not be used for international air travel. **(Bulletin 38, FA-08-30)**

- Iranian Nationals were granted "Voluntary Departure" status until September 1, 1979. After that date, INS will decide on individual claims of persecution based on race, religion, or political opinion. Unless an Iranian has documentation supporting the eligible alien status, he/she is not eligible for Families First.

- Temporary Resident Card, Form I-668, means that an amnesty alien has been approved for temporary residence. If the form is coded to show that the alien was admitted under Section 245A, the alien is <u>not</u> eligible. If the form is coded to show the alien was admitted under Section 210, the alien is eligible until the expiration date stated on the face of the document.

- Forms such as I-688A, Employment Authorization Card, or Employment Authorization Document (EAD) and I-689 shows that an alien has <u>applied</u> for admission. They are <u>not</u> acceptable documents to show that a person has been admitted under an eligible section. In addition, Form I-181-B cannot be used as acceptable verification.

- If the INS Form I-94 does not bear any of the above annotations, the alien may state the reason and submit other conclusive verification, such as a notice, letter, or identification card that establishes that the alien has been admitted for permanent residence as a legal alien.

- Other evidence of eligible status includes:

  - Verification of the alien's classification under Section 101 (a)(15), 101 (a)(20), 207, 208, 212 (d)(5), 243, 249, of the Immigration and Nationality Act.
  - Form G-641 (Application for Verification of Information from Immigration and Naturalization Service Records) when it is properly annotated at the bottom by INS representative that the alien was admitted lawfully for permanent resident status or paroled for humanitarian reasons.

- A court order stating that deportation has been withheld pursuant to Section 243 (h) of the Immigration and Nationality Act.

- The alien may contact INS or otherwise obtain the necessary verification. If the household does not wish to contact INS, give the household the option of withdrawing the application or participating without the ineligible alien.

- If an alien is unable to provide an INS document that will verify alien status (not even an INS Form 1-94), the worker has no responsibility to contact INS on the alien's behalf. When a person indicates inability or unwillingness to provide documentation of alien status, that person should be classified as an ineligible alien status.

Systematic Alien Verification for Entitlements (SAVE) System:

- The SAVE system is the process of verifying an alien's immigration status by validating the alien's INS documents through the Immigration and Naturalization Service (INS).

- Do not deny or reduce benefits pending verification of an alien's documentary evidence through SAVE.

- Use one of the following SAVE verification procedures to establish an alien's status:

  - Use telephone interaction between DHS and INS using the INS' Alien Systematic Verification Index (ASVI) data base as the primary verification method.
  - Counties with touch-tone telephones have direct access to the ASVI data base. These counties will have a unique four-digit identification number.

- Only those persons designated by District Family Assistance Directors are permitted to access the ASVI data base.

- Use the following steps to access the ASVI data base:

  - Dial the toll free system access number: 1-800-365-7620
  - Listen for the following message:
    "Welcome to the INS ASVI System....(various messages). Please enter your authorization code followed by the pound sign"
  - Enter the Authorization Code: *42*91*81*62----#
  - Listen for the following message:

    Enter the A-Number. Substitute a leading zero (0) or zero, if appropriate, for the leading "A". A total of nine (9) digits must be entered to satisfy the Alien Registration Number response.

    EXAMPLE: An A-Number having 9 numeric digits will be entered as follows:

    A123 456 789 = 123 456 789
    An A-Number having 8 numeric digits will be entered as follows:
    A12345 678 = 012 345 678
    An A-Number having 7 numeric digits will be entered as follows:

A1 234 567 = 001 234 567

- Listen for further prompting from the "voice" to complete the verification process.

- Secondary Verification

  - INS Form G-845 is secondary method for verifying an alien's immigration status.
  - Use INS Form G-845 in the following situations:

    - The State Agency is unable to access the ASVI data base.
    - The alien is in a category which is not recorded in the INS computerized file.
    - A determination is made that the documentation presented by the alien is questionable.
    - A material discrepancy in the records requires resolution, when no record on the ASVI data base is found for the alien applicant.
    - Non-INS documents are accepted as reasonable evidence of the alien's immigration status.
    - The alien's documented status cannot be validated after accessing the ASVI.

- Secondary Verification Procedures

  - Complete INS Form G-845 for each applicant who is not a U.S. citizen.
  - Copy the verification used to establish satisfactory immigration status.
  - Attach a copy of the verifications to the Form G-845. (USCIS requests that we staple the verifications to Form G-845 in the upper left-hand corner using only one staple).
  - Submit the verification and Form G-845 to USCIS at the address below:

    U.S. Citizenship and Immigration Services (USCIS)
    470-490 L`Enfant Plaza East, SW
    Suite 8001
    Washington, D.C. 20024
    Attn: Immigration Status Verification Unit

    Bulletin 07
    FA-08-04

  - Review returned Form G-845 to ensure that legal alien status is validated and document CLRC.

Income and Resources of Ineligible Alien:

- Consider the countable income of an ineligible alien as available to the remaining AU members only if the ineligible alien is a parent, spouse of an AU member, or stepparent living in the home.

- If the ineligible alien is a parent, deem his/her income as available to his/her eligible dependent child by using the stepparent deeming formula.

- Consider the resources of an ineligible alien as available to the remaining AU members only if the excluded ineligible alien is a parent of dependent children included in the AU.

When the alien presents acceptable verification of alien status which results in his/her meeting eligibility requirements, he or she will be added to the AU effective the first month following the month the verification requirements is met, assuming all other eligibility requirements are met.

Public or Private Agency Sponsors:

Effective October 1, 1984, any alien under the sponsorship of a public or private agency/ organization is not eligible to receive Families First within three years of entry into the country unless it is proven (and documented) that the agency is no longer in existence or has become unable to meet their sponsorship obligations to the alien.

If the status of any sponsoring agency/organization cannot be verified at the local level, contact the State Office Policy Section.

If it is determined that the agency is unable to meet their sponsorship obligations, determine the alien's eligibility by following routine eligibility procedures.

Exception: Soviet Jewish Refugees:

Soviet Jewish refugees who are sponsored by the Hebrew Immigrant Aid Society and local Jewish organizations are:

- Ineligible for Families First for two years from the refugee's date of entry or until the refugee is lawfully admitted by permanent residence status, whichever comes first, if the refugee's financial needs are being met by the sponsor.

- Do not deny any application filed by a sponsored Soviet Jewish refugee solely because of knowledge of a sponsorship agreement.

- Follow up with the sponsoring agency to determine whether the refugee has any income and resources and what assistance the agency is providing to the refugee.

Individual Citizen Sponsors:

- Effective October 1, 1981, aliens who apply for Families First for the first time must have the income and resources of their individual citizen sponsors considered in determining their eligibility for assistance.

- The income and resources of the sponsor shall be considered for a period of three years after the alien's entry into the United States.

- An individual citizen is a person who signed an affidavit or other statement accepted by INS as an agreement to support an alien as a condition of the alien's admission for permanent residence in the United States.

Alien's Responsibility:

- The alien is responsible for obtaining the cooperation of his/her sponsor and for providing the information necessary to determine the alien's eligibility. This will include material provided in support of the alien's immigration application.

- Failure to obtain the sponsor's cooperation or to supply the information will result in denial/closure of the application/case.

Alien's Exempt From This Provision:

Aliens who are exempt from the provision are those who were:

- Paroled into the United States as refugees.

- Granted political asylum by the Attorney General.

- Admitted as Cuban or Haitian entrants.

- Admitted under Section 203 (a)(7) of the Immigration and Naturalization Act prior to April 1, 1980.

- Admitted under Section 207 (c) of the Act after March 31, 1980.

- Alien children of sponsors or of sponsor's spouse.

- Recipients of AFDC prior to October 1, 1981, or a former AFDC recipient who reapplies for Families First in the future.

Establishing Income and Resource Amount From Sponsors:

The following steps are necessary in establishing the amount of income and resources which shall be deemed from the individual citizen sponsor to the alien whether or not these are actually available to the alien.

Income of Sponsor:

- Determine the gross earned and unearned income of the sponsor and the sponsor's spouse (the latter's income will be considered even if the marriage occurred after the affidavit of support was executed).

  NOTE: If the sponsor and/or spouse receive Families First or SSI, no income is to be considered available to the alien.

- Deduct from the gross earned income (wages, salaries, or net earnings from self-employment) 20% of the total of such amounts or $175.00, whichever is less.

- Deduct the Consolidated Standard of Need for the number of individuals living with the sponsor who are claimed by the sponsor and/or the sponsor's spouse as dependents for federal personal income tax liability.

- Deduct the amount the sponsor and/or spouse pays to individuals outside the home who are claimed as dependents for federal income tax purposes.

- Deduct any amount paid by the sponsor and/or spouse for child support or alimony to individuals living outside the home.

- The remaining income is considered as unearned income to the alien and will be added to the alien's own income in determining eligibility for assistance.

- Follow Families First budgeting procedures beginning with the Gross Income Standard test.

Resources of Sponsor:

- Determine the amount of countable resources of the sponsor and the sponsor's spouse as though the sponsor were applying for Families First.

- Deduct $1500 from the total countable resources.

- The balance of the resources are considered available to the alien and added to the alien's own countable resources in determining eligibility.

It is important to note that the provision for considering the income and resources of the individual citizen sponsor as available to the alien is not waived, even though the sponsor may have revoked his sponsorship agreement.

Income and resources which are deemed to a sponsored alien are not considered available to unsponsored members of the alien's family except to the extent the income and resources are actually available. Unsponsored members are not ineligible simply because a sponsored member fails to provide information regarding his/her sponsor.

Multiple Sponsorship:

When it is determined that an individual citizen sponsor has agreed to sponsor multiple families, the amount to be deemed to the eligible families is divided equally among the families who are applying for assistance. If only one family applies for Families First, then the total amount of the sponsor's liability (income and resources) is applied to the family so applying.

Liability for Overpayments:

Any sponsor of an alien and/or the alien is jointly and severably liable for any overpayment made to such alien during the three-year period following the alien's entry into the United States, if such overpayment was due to the sponsor's failure to provide correct information, except where it can be established that the sponsor was without fault or where good cause for failure to provide such information can be established. The same procedure for handling overpayment is applicable to aliens as for any other Families First recipient.

Good Cause for Sponsor to Fail to Provide Information:

Good cause for failure of the sponsor to provide correct information to the Department includes the following:

- The Department fails to request information regarding the sponsor's income and resources.
- The sponsor has had no direct contact with the Department concerning his/her income and resources, and he/she is unaware of the information provided by the sponsored alien.
- Social and/or language barriers preclude the sponsor's understanding and ability to provide the correct information.
- Other unusual circumstances which indicate that the failure to provide correct information is beyond the sponsor's control.

AGE REQUIREMENT

POLICY STATEMENT

To be eligible for Families First benefits, a child must be either:

- Under age 18.
- Under age 19 and will complete high school or an equivalent vocational/technical training before his/her 19th birthday.

If an 18 year old child is in school, but will not complete high school or an equivalent vocational/technical training before turning 19, he/she will be ineligible for Families First benefits effective the month following the month of his/her 18th birthday. The 18-year old child who will complete the secondary education before becoming 19 will become ineligible the month after the month that he/she graduates.

EXCEPTIONS

There are no exceptions to the age requirement for Families First.

VERIFICATION

Age must be verified at each application. Once the children's age has been established it is not necessary to verify it again. Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information. For example, if the caretaker needs to obtain birth verification for a child and this information is listed on Clearinghouse, it is more reasonable for the caseworker to obtain this information for the AU.

The age of an AU child will be verified using birth certificates, birth certificate information or delayed birth certificates. Pending receipt of the birth certificate, the following information which is listed in order of priority may be used to establish the child's age:

- Hospital records.
- Records of physician or mid-wife who attended the birth of the child.
- Baptismal certificate.
- School records that show the child's age or date of birth.
- Insurance policies that show the child's age or date of birth.
- Census Bureau records.
- Unaltered family Bible records.

When any verification other than the birth certificate or Division of Vital Statistics records is used, the verification must be evaluated and more than one document should be used.

In the instance where none of this documentary evidence is available and the appearance of the child obviously corroborates the caretaker's statement that the child is under 18 or 19, as appropriate, assistance may be approved pending receipt of the necessary documentary evidence. However, efforts to obtain the verification must begin during the application process and must continue until the date of birth and exact age of the child is established.

DOCUMENTATION

The AU child's age and the information used to verify it must be recorded in the eligibility and case management system. If verification is not immediately attainable and observation of the child is used for temporary verification, the eligibility and case management system must be documented to explain the situation.

RELATIONSHIP

POLICY STATEMENT

To be eligible for Families First, a child must be living in the home of a parent or certain relative who is within a specified degree of relationship to the child. Relatives within the specified degree of relationship are listed below. (See the chart at the end of this section for further clarification.)

- Any blood relative, i.e. father, mother, brother, sister, uncle, aunt, first cousin, nephew, niece, or first cousin once removed. This includes relationships to preceding generations, grandparents, great-grandparents, great-great grandparents, great uncles/aunts, and great-great-great- grandparents.

- Any of the above relatives who are of half-blood relationship.

- Stepfather, stepmother, stepbrother and stepsister.

- Legally adoptive parents of the child or of the child's parents, the natural and other legally adopted children of such persons, and the blood relatives of such persons, including first cousins, first cousins once removed, nephews, and nieces.

- Legal spouses of any of the persons named in the above groups. This applies even though the marriage may have been terminated by death or divorce.

- The caretaker relative does not have to be the legal guardian or custodian of the child in order to receive Families First benefits for the child. Blood relationships within a specified degree of the child and relative are the eligibility requirement for Families First purposes.

Relationship Terms:

Adoption of children - Legal adoption of a child or a child's parent establishes a legal relationship to a new set of relatives, both immediate and extended. The adoptive relatives within the specified degree of relationship qualify to receive Families First for an adopted child as do the blood relatives of the adopted child.

Child Born of Annulled/Bigamous Marriage – Children born of an annulled or bigamous marriage are considered the legal children of that marriage.

Child Born During Marriage – By law in Tennessee, any child born during a marriage or within ten months of the termination of that marriage by death or divorce is presumed to be the child of the mother's husband. This presumption can be overcome only by strong and convincing evidence that it would have been impossible for cohabitation between the mother and her husband to have occurred at the time of the child's conception. Therefore, when a child is born in these circumstances, the mother's husband will be considered to be the child's father. This is

true, even if it is alleged that someone other than the husband is the child's father, until paternity is established in a court of competent jurisdiction.

Legitimated Children – Children who have been legitimated are entitled to all rights and privileges of a child born in wedlock. Therefore, relatives of the legitimating parent are considered as relatives eligible to receive Families First for the child.

Termination of Parental Rights – Termination of parental rights by a court of competent jurisdiction terminates all of the rights and responsibilities of a child's parents. However, such termination does not affect a child's relationship to his/her natural extended family. When blood relationship to these relatives can be factually established, they may receive Families First for the child.

EXCEPTIONS

The relationship requirement cannot be waived. Therefore, even though a person may have been awarded legal guardianship or custody of a child or otherwise stands ***in loco parentis*** to the child, he/she is not eligible to receive Families First benefits for the child unless he/she is also a specified relative. However, when a child is born during a marriage or within ten months of the termination of that marriage by death or divorce, the child is presumed to be the child of the mother's husband. In this instance, legal relationship takes precedence over blood relationship. A court order changing the paternity of the child will be necessary to change the relationship for Families First purposes.

VERIFICATION

Relationship must be verified before Families First benefits can be approved. Once the relationship is verified, it is not necessary to verify relationship again unless the information becomes questionable. Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information.

The following documents can be used to verify relationship whether legal or alleged. When any document other than a birth certificate or birth data obtained through Tennessee Clearinghouse is used to establish relationship, more than one document is required:

- Birth certificates, copies of birth certificates or Tennessee Clearinghouse which establish relationship of the child to his/her parent; (In instances where the caretaker relative is not the parent, these documents can be used to verify the relationship of the caretaker relative to the child's parent. This is a preferred form of verification, but is not required.)

- Adoption and legitimation orders that establish the relationship of the child to his/her parent.

- Hospital birth records.

- Family Bible or other family records which are in ink and have not been altered.

- Trust documents and other such instruments and/or records if relationship is specified in the document.

- Wills and deeds to property if the individuals and relationships are specified.

- Census Bureau records that list the child belonging to a particular family and showing relationships.

- Written statements of physicians or midwives who attended the births and remember the names of the people involved.

- Old DHS records which consistently specify the degree of relationship of the applicant/recipient to the child.

- Juvenile Court, other court and hospital records which show relationship.

- Copies of income tax returns listing the child as a specific relative.

- School records which specify relationship.

- An award letter or other acceptable evidence from SSA that RSDI payments have been awarded to a child based on his/her parent's account.

- Military or veterans records which specify relationships.

- INS records, Indian Agency records, other government or local agency records.

- Newspaper records, and local histories which specify relationship.

- An Acknowledgement of Paternity properly completed by an alleged natural father of a child is sufficient substantiation of blood relationship; (This document is then routed to the IV-D agency so that they may initiate procedures to have paternity judicially determined to offer the child protections for purposes other Families First eligibility.)

OR

- Written materials of other kinds may be used as cumulative evidence of relationship when names and relationship are specified. Such materials include church, daycare and school records, letter and other such written materials.

In the absence of any documentary proof of relationship, the caretaker relative's statement is acceptable as long as it contains the following information:

- The reason there is no proof of relationship.

- His/her detailed statement as to how he/she is related to the child.

- As least one notarized statement from a person in a position to know the facts of the situation in which he/she describes the relationship and how he/she knows it to be true.

The notarized statement that is used may be either written by the individuals providing the information or DHS staff can write out the statement and have the individuals' signature notarized. These affidavits may be used to fill in gaps in the information verified by documentary evidence or in lieu of documentary evidence if none exists. An affidavit tracing relationship must be made by a person other than the applicant/recipient. This person may be related or not related to the AR, but he/she must be a person who is in a position to know the facts of the situation. More than one affidavit may be required in order to completely trace relationship.

DOCUMENTATION

All information regarding relationship must be documented in the eligibility and case management system. Any other pertinent information regarding relationship must be documented. For example, once the relationship is verified, it is not necessary to verify relationship again unless the information becomes questionable. If that occurs, the caseworker must document the eligibility and case management system regarding the questionable circumstances and the outcome of the verification.

PROCEDURES

The caseworker must evaluate the evidence used to establish relationship as to its validity, consistency and the credibility of the person providing the information. Any conflicting information must be resolved before approval of a Families First application. The caseworker must obtain any available information necessary to constitute a preponderance of consistent evidence of relationship to determine the relationship of the child to the caretaker. Each step of the relationship between the child and caretaker must be traced and documented. Do not use an affidavit to show relationship when documentary evidence is available or can be obtained.

FAMILY RELATIONSHIP CHART

5º	Great-Great-Great Grandparent					
4º	Great-Great Grandparent					
3º	Great-Grandfather/ Great-Grandmother					5º Great-Granduncle/ Great-Grandaunt
2º	Grandfather/ Grandmother				4º Granduncle/ Grandaunt	1st Cousin Twice Removed
1º	Father Mother		3º Uncle/ Aunt		5º 1st Cousin Once Removed	2nd Cousin Once Removed
*	SELF	2º Brother/ Sister	4º 1st Cousin		2nd Cousin	3rd Cousin
1º	Son Daughter	3º Nephew Niece	5º 1st Cousin Once Removed		2nd Cousin Once Removed	3rd Cousin Once Removed
2º	Grandson/ Granddaughter	4º Grandnephew Grandniece	1st Cousin Twice Removed		2nd Cousin Twice Removed	3rd Cousin Twice Removed
3º	Great-Grandson/ Great-Granddaughter	5º Great-Grandnephew Great-Grandniece	1st Cousin 3 Times Removed		2nd Cousin 3 Times Removed	3rd Cousin 3 Times Removed
4º	Great-Great-Grandchild					
5º	Great-Great-Great-Grandchild					

USING THE FAMILY RELATIONSHIP CHART

All degrees of relationship on the Family Relationship Chart are to SELF. For example, a son or daughter, or a father or mother, are in the first degree of relationship to SELF.

When using this chart to determine degrees of relationship between cousins (since these relationships seem to be the most confusing), keep in mind the following guidelines:

- Your first cousin is your parent's brother's or sister's child. This relationship is in the fourth degree, and is a specified relationship for Families First.

- Your first cousin's child is your first cousin once removed. This relationship is in the fifth degree, and is a specified relationship for Families First.

- The child of your first cousin once removed is your first cousin twice removed. This relationship is on the sixth degree, and is not a specified relationship for Families First.

- Your grandparent's brother or sister's grandchild is your second cousin. This relationship is the sixth degree, and is not a specified relationship for Families First.

Example 1:

Joe's Aunt Netta is applying for Families First for him. We look at the chart and see the Uncle/Aunt is in the third degree of relationship for SELF, so Aunt Netta is in the third degree of relationship to Joe, so he is a specified relative for Families First purposes.

Example 2:

Kathryn's father is Ralph. Ralph's first cousin, Ellie, is applying for Families First for Kathryn. The child of the one's first cousin is a first cousin once removed, which is the fifth degree of relationship. Ellie is a specified relative for Families First.

Kathryn has a baby, Margaret. Ellie applies for Families First for Margaret, but is not eligible because she is the first cousin twice removed, which is the sixth degree of relationship.

Remember: Specified relatives also include certain step-relationships, as well as "legal spouses" of the above groups, even though the marriage may have been terminated by death or divorce.

LIVING IN THE HOME WITH A RELATIVE

POLICY STATEMENT

To be eligible to receive Families First benefits, a child must live in a place of residence maintained by a specified relative as his or her home and the home of the child. For Families First purposes, legal custody is not pertinent to the determination of eligibility and relationship. Where the child actually lives and who has care and control of the child are the determining factors.

A relative is considered to have **care and control** of child when he/she has the major responsibility for parental obligations of day-to-day care, support, supervision and guidance for the child. These responsibilities may be carried out either alone or with another person living in the home. When the child lives with the relative, it is presumed that the relative has care and control of the child. However, there are certain situations when this may be questionable and the caseworker must determine who has care and control of the child. The following are examples of instances when care and control must be established:

- Joint custody cases.
- When the relative and the child live in different dwellings.
- When temporary absence is claimed.
- When a relative who is not the parent receives Families First benefits for the child and a parent returns to the home.

The decision as to if the relative has care and control of a child is made on a case by case basis. The caseworker/supervisor must evaluate the facts in each particular situation and use their best judgment. If the facts establish that the relative has care and control, then the child is considered to be living with that relative. See Procedures in this section for a guide in determining care and control.

EXCEPTIONS

When there is a situation of **joint custody**, the caseworker must look at each situation on a case by case basis. If the child lives with both parents, then deprivation must exist based on incapacity or unemployed parent policy unless the child lives with each parent for extended periods. In that case, the child may meet the deprivation by absence criteria and would be eligible to be included in the home of the parent with whom he/she resides at the time of application. When the child goes to live with the other parent, eligibility ceases to exist with the first parent.

Eligibility can continue for Families First during **temporary absences** from the home for either the child or the relative. A temporary absence of the child or relative is of short duration with specific intentions of returning on or about a specific date. In addition, the relative must continue to provide care and control of the child even though either the child or the relative is

temporarily absent from the customary family setting. Any absence of either the child or relative which will extend beyond three months must be studied carefully to determine if the relative actually retains care and control of the child for a major portion of each month.
Some examples of when Families First benefits can be granted or continued for a child who is temporarily out of the home are when the child:

- Is away on a visit.
- Is in the hospital temporarily for treatment.
- Attends summer camp.
- Attends an accredited or approved school away from home for the primary purpose of academic education or vocational/technical training because the school facilities to meet this child's special needs are not available in his/her own community or within commuting distance.
- Attends a college, university or other vocational school on a scholarship or other grant that is not available in his/her own community.
- Is temporarily in a psychiatric facility and has not been placed there by a court order.
- Is in a maternity home.

A child with special needs includes one who is especially gifted in a particular area such as an academically gifted or artistically gifted child or one who has a physical, mental, emotional, or learning disability. A facility that is established primarily for the purpose of providing child care or which is licensed for that purpose does not qualify as an accredited or approved school regardless of what the facility might be called.

Some examples of when Families First benefits can be granted or continued for a relative who is temporarily out of the home are when the relative:

- Is away on a visit.
- Is providing some care for a spouse or child who is hospitalized.
- Is attending a specialized training facility not available in his/her home community such as those through the Services for the Blind or Division of Vocational Rehabilitation.
- Is in the hospital for treatment of an acute illness or injury.
- Is in a maternity home.
- Is in a convalescent care facility for the purpose of obtaining special care that is not available in the home.
- Is absent for the purpose of setting up a home to which he/she will move the child.

- Is temporarily in a psychiatric facility and has not been placed there by a court order and will be absent for no more that six months.

A person who resides in a **maternity home** may be eligible for Families First benefits. Eligibility is determined as though she was currently living on her own or in a foster home. The period of time spent in a maternity home is a temporary absence from her usual home and eligibility is established based on the circumstances that exist there. If the home situation is being dissolved, eligibility is determined based on the situation as it currently exists. Residents of a maternity home may apply either in the county of their usual residence or in the county where the maternity home is located.

VERIFICATION

Current school records showing a school age child's address are the primary evidence that the child is in the home of the relative requesting Families First benefits. However, if the child is not school age or the school records are unobtainable for a school age child, use the following sources of evidence:

- Hospital, clinic, or Health Department records.
- Statement from a child care provider.
- Court support order.
- Juvenile court records.
- Child Welfare agency records.
- Statement from a minister, priest or rabbi.
- Signed statement from a non-relative.
- Signed statement from a non-relative landlord.
- Personal contacts by the caseworker with neighbors as to where, to their knowledge, the child lives.
- Caseworker observation that the child lives in the home.

DOCUMENTATION

All information and verification about where the child lives, temporary absence, joint custody, etc. must be recorded in the eligibility and case management system. All extenuating circumstances and/or unusual situations must be fully explained and must include all information used by the caseworker/supervisor in making decisions about whether or not the child meets the Families First requirement to live with the caretaker/relative.

PROCEDURES

The following questions are guides to consider when determining if a relative has **care and control** of a child. The child's age and degree of independence are also factors in making this decision.

- Who has and exercises responsibility for daily physical maintenance of the child such as purchasing/preparing food, purchasing/maintaining clothing, providing a place to sleep and basic shelter, and overseeing daily health maintenance activities?
- Who has and exercise responsibility for securing medical/dental care for the child?
- Who has and exercises responsibility for consenting to major medical treatment procedures for the child?
- Who receives and expends monies for the child?
- How many weeks in a month does the child stay in the relative's home? How many weeks in a month does the child stay away from the relative's home?
- What address is shown for a school age child on the school records?
- If a child is in day care, who takes the child to and picks the child up from the facility? Who does the daycare facility consider the responsible relative?
- Is the child included on the lease in public housing or does the landlord/rental agent know of his/her presence in the dwelling?
- Do other records indicate where the child lives?

When **joint custody** has been granted, the caseworker must:

- Obtain a copy of the order or custody order, if possible.
- Determine if the order is being followed.
- Determine if both parents are functioning as parents.
- Determine where the child spends the majority of the time.
- If the child is of school age, obtain from the school records the child's address and the name and address of the person to be notified in emergencies.
- Determine if the child receives food stamps in the household in which he/she is included.
- Ask neighbors, friends, relatives, etc. with whom they consider the child to be living.
- Determine who exercises care and control of the child.

The caseworker /supervisor will make their decision about where the child is living based on the information obtained through the sources listed above.

When determining **temporary absence**, the caseworker must establish:

- The name and location of the school, camp, maternity home or hospital where the person is.
- The name and address of the friend or relative the person is visiting.
- The date the individual left the home and the expected date of his/her return.
- The reason for the absence and the person responsible for the plans for the person to return to the home.
- The responsibility that the relative has for the child while either of them is away from the home, such as financial responsibility and decision making regarding the child's care.
- Specific arrangements for the individual's return to the home.

The caseworker will use this information to decide whether temporary absence exists or whether the person actually lives elsewhere. If temporary absence exists, an alert must be set to review the case when the individual is expected to return to the home.

DEPRIVATION

POLICY STATEMENT

To be eligible for Families First a child must be in need according to the Families First assistance standards and deprived of parental support and/or care. Deprivation is due to one of the following:

- Continued absence of one or both parents.
- Death of one or both parents.
- Incapacity of one or both parents.
- Unemployment of one or both parents.

ABSENCE

POLICY STATEMENT

To determine that a child is deprived of parental support because of absence, the caseworker must establish that at least one natural parent is absent from the home in which the child lives. As a condition of Families First eligibility, the remaining parent or caretaker relative must give required information about the absent parent and cooperate with the IV-D agency as necessary. If the absent parent has a separate living arrangement from the child for which Families First is requested, absence can be considered to exist. Visits from the absent parent need not be based on a court order or other formal arrangement if the absence from the home is established as follows:

Absence from the home may exist because of any of the following:

- Divorce of natural parents and only one or neither parent remains in the home with the child.
- Separation of parents.
- Desertion of one or both parents.
- Imprisonment of one or both parents.
- Institutionalization of one or both parents.
- One or both parents are serving a court imposed sentence of unpaid public service while residing at home.
- Single parent adoptions.

Continued absence will be considered to exist when one or both parents is/are out of the home and the nature of the absence:

- Interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and
- To know (e.g. institutionalization of parent in medical/psychiatric facilities, incarceration, etc.) or indefinite duration of the absence precludes counting on the parent to perform his/her function in planning for the parental support or care for the child.

Continued absence will be considered to exist when one or both parents is/are <u>out of the home</u> and the nature of the absence:

- Interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and

- Is known (e.g.; institutionalization of parent in medical psychiatric facilities, incarceration, etc.) or the indefinite duration of the absence precludes counting on the parent to perform his/her function in planning for the parent support or care for the child.

How do we determine when continued absence exists?

In the great majority of cases, absence exists when one of the parents does not live in the home with the child.

When a parent lives outside the child's home his or her ability to provide maintenance, physical care, and guidance is usually interrupted, and absence can be presumed to exist.

If the child was born out-of-wedlock and paternity has not been subsequently established, absence is presumed to exist.

In Tennessee, if a father "has legitimated," i.e., has completed legal action to legitimate a child and lives in the home with that child, the child is NOT deprived of parental support on the basis of continued absence.

By the same token, if a father has acknowledged his blood relationship with the child by a, "voluntary acknowledgement of paternity," and lives in the home with that child, the child is NOT deprived of parental support on the basis of continued absence.

NOTE: If the child is determined not to be deprived of parental support on the basis of absence, and is otherwise, eligible, determine if one of the parents is incapacitated or unemployed.

Both federal and state policy support the maintenance and strengthening of family ties. "Absence" does not preclude the parent who does not live with the child from visiting with the child regularly, taking the child on outings or for visits in his/her home or otherwise building an ongoing positive relationship with the child. The absent parent can and should be an important influence in the child's life. An absent parent's purchase of small necessary items or items of clothing for a child is by no means evidence that deprivation does not exist. The absent parent may still maintain a relationship with the dependent child and is encouraged to do so.

"Absence" Due to Court Imposed Unpaid Public Service:

A child is to be considered deprived of parental support and/or care by reason of continued absence from the home when:

- A parent has been convicted of an offense and is under sentence of a court, and
- The sentence requires-and the parent is performing-unpaid public work or community service during working hours which totally precludes gainful employment, and
- The parent is permitted by the court to live at home while serving the sentence.

The sentence must be verified with the Clerk of the Court which issued the Order. In addition, it must be verified that the unpaid work is actually performed.

Real and personal property belonging to the convicted parent is considered available to the AU.

Should the convicted parent have any form of countable unearned income, except SSI, the excess above his/her own CNS needs should be counted as available to the family.

The convicted offender living at home and performing unpaid work:

- Cannot be included in the assistance unit.
- Cannot be the payee.
- Is not an FF applicant/recipient so is not required to participate in work.
- Must not be treated as an absent parent in relation to child support requirements.

Alleged Parent Defined:

The biological father of a child born out-of-wedlock whose legal paternity has not been established.

NOTE: Absence does not exist if both parents, including the alleged parent, live in the home with the child and the alleged parent's paternity has been established by a court order or by an acknowledgement of paternity.

The mother or other eligible relative applying for assistance for such a child will be required to provide all the facts known and advised of services available to establish the identity and marital status of the father of the child unless she/he has good cause. (See Sanctions Chapter for consequences of failure to comply with this requirement.)

If the mother states she does not know the father's full name or has not seen him since the child was born, or he was just a casual visitor, in military service, etc., "just passing through", her statements to this effect will be substantiated through other sources of information. In these instances, eligibility will be determined and a referral will be made to the Department of Children's Services if there is an indication that the children are being harmed by such casual relationships. (Refer to Protection of Children Chapter)

Deprivation on the basis of absence exists even though the parent who remains in the home has remarried and the stepparent is also in the home. For Families First purposes, a stepparent is not considered a legally responsible relative. Therefore, Families First may be approved for the child of the parent's former marriage or for a child born out-of-wedlock who is otherwise eligible regardless of the fact that the child is living in the home with an able-bodied parent and stepparent.

Absence does not exist when a parent is away from the home in which the child is living solely for reason of the parent's employment (long distance truck drivers, traveling salespersons, construction workers on international projects, etc.) or performance of active duty in a uniformed service of the United States (Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Administration and US Public Health Service). This is viewed as an intact family in which the parent is away from home for reason of employment.

The caseworker must evaluate the family situation and determine whether or not absence of a parent exists. Generally if a parent was living at home with his/her family prior to leaving in order to work or serve elsewhere, the family will be viewed as intact.

However, absence may be established if:

- The parent was not living at home for reasons other than active service duty or employment prior to leaving in order to work or serve elsewhere.
- Divorce proceedings had been instituted or the couple has separated.
- The AR claims the family is not intact.

In the instance where the parent is in uniformed service, the caseworker may assist the caretaker to request an allotment be sent directly to him/her or Child Support Services by writing the appropriate commanding officer/payment center. A referral also may be made to the local chapter of the American National Red Cross for this help.

Absence does not have to exist for a specific period of time. However, the length of time the absence is apt to exist must be considered. When it is evident that the absence will terminate before the application can be processed and payment, the condition of continued absence is not met.

When the absent parent recently left the home and it is not clear that the absence will continue indefinitely, absence must be verified within three months of the date of approval or sooner, if necessary. Set an expected change as appropriate in these situations.

VERIFICATION

Verification is primarily the responsibility of the AU. Continued absence must be verified at each application and renewal.

DOCUMENTATION

All pertinent information regarding the absent parent must be documented in the Eligibility and case management system. Any additional information not specified on the absent parent screens should be recorded in running record comments. The following information should be collected:

- The absent parent's identity.
- The absent parent's whereabouts.
- Length of absence and whether or not there is a possibility of reconciliation or reestablishment of the relationship.
- Circumstances regarding the absence.
- The absent parent's employment, including the type of work he/she normally does if unemployed.
- The absent parent's SSN, date of birth, place of birth and parent's names.
- Whether or not the absent parent is providing support or adequate support.
- Whether or not the absent parent is married, divorced, separated, living with a partner, etc.
- Whether or not the child has been legitimated if born out-of-wedlock or whether or not he/she has a legal parent.

PROCEDURES

Although locating and pursuing child support from all absent parents is the responsibility of IV-D, the caseworker must collect all possible information about the absent parent that will assist IV-D, as well as establishing that the child is deprived of parental support. The best method of determining that the child is deprived of parental support based on absence is to interview the absent parent. If the absent parent is in the same county, the caseworker should locate and interview the absent parent, whenever possible, to determine:

- Whether or not he/she is currently supporting.
- The amount and frequency of support.
- The method of support payment and any future plans to support the child or establish paternity, if applicable.

In single parent adoptions, absence of one parent exists because there is only one parent. There are no child support requirements on these cases. The fact that an adoption decree states that the adoptive parent is financially able to provide for the child has no bearing on the child or caretaker's eligibility. It is an indication that the worker must thoroughly explore all financial circumstances to determine the facts of the current situation and what has happened to cause the need for Families First.

Child Born in Wedlock:

A child born during a marriage (either a valid legal marriage, an annulled marriage, or a bigamous marriage) is presumed to be the legitimate child of that marriage. Any child born in wedlock or within ten calendar months from the divorce or death of the mother's legal husband is presumed to be the legitimate child of the mother's husband. This presumption can be overcome only with strong and convincing proof that it would have been impossible for the mother and her husband to have cohabited at the time of conception. (For example, the husband was abroad in the armed services or in prison at the time of conception.)

Child Born out-of-Wedlock:

A child born to an unmarried mother with or without a known father is a child born out-of-wedlock.

Voluntary Legitimation:

Voluntary legitimation is accomplished through a petition to the court (usually the Juvenile Court) by the biological father (when he is not married to the mother and the mother is not married to someone else) with the acknowledgement that he is the child's biological father and that he wishes to legitimate the child. The court then makes a decision as to whether he will be declared the legal father of the child. Also, the biological father may, at anytime, sign a Voluntary Acknowledgement of Paternity which becomes a basis for the establishment of child support by the court without proof of paternity. Both parents must sign the sworn statement.

Marriage of the Natural Parents to Each Other:

If the father of the child born out-of wedlock "holds the child out" as his and the parents are married to each other after the child's birth, the child is legitimated at the point of the parent's marriage. The parents may request legitimation by making application for a new Certificate of Birth to the Tennessee Department of Health and Vital Records. Both parents must sign the necessary forms in order for the change in records to be made. A certified copy of the marriage certificate and a notarized request on a form provided by Vital Records must be sent to Vital Records in order to change the child's birth certificate to show his/her legitimate status.

Valid Common-Law Marriage:

Tennessee does not recognize common-law marriages established in Tennessee, but does recognize common-law marriages established in states which view them as legally binding. Children born of such previously established marriages are considered legitimate and the spouses are obligated to each other financially. Exception: Not valid for deeming stepparent income.

Paternity Proceedings:

A petition by the mother, the putative father, the Department of Human Services, or someone acting on the child's behalf is filed in Juvenile Court seeking to have a child's status legally determined. The burden of proof of paternity is on the petitioner. The court then makes a decision as to whether the man is to be declared the legal father.

Actions Subsequent to DNA Testing

Prior to very recent years, blood testing could only be used as evidence to disprove paternity. However, now that DNA testing can include or exclude an alleged father with 95 percent to 99 percent degree of accuracy, courts are accepting these tests in determining the biological father of a child and are issuing orders of paternity based on the results. Thus, these tests are being utilized with increasing frequency.

When an order of non-paternity, based on genetic testing, is issued for an individual legally declaring that the individual is not the parent of a particular child, make no further attempts to pursue the matter of paternity/child support against the individual.

In FF paternity cases handled by IV-D, a copy of the court order issued will be forwarded to FF staff so that the information can be recorded on the absent parent screens in the eligibility and case management system. The court order must be checked carefully by the caseworker when received so that prompt appropriate action can be taken (within 30 days).

If the order confirms that the alleged parent is the natural/legal parent, the FF family's circumstances must be determined. If the parent is in the home with the child, the child is no longer eligible unless the parent is disabled or the AU meets unemployed parent criteria. If the parent is out-of-the-home, IV-D will follow up on securing support.

If the court order declares that the named alleged parent is not the natural/legal parent, further action by the worker is required promptly.

- Once such a court order is issued, no further referral to IV-D naming that man as the natural parent of that child can be made.

- The mother (other caretaker or grantee relative) must be interviewed and she must be informed that it is not acceptable for her to continue to name that man as the alleged parent, that she must name the true natural parent, explain why she named the previous man, and /or give a reasonable explanation of the true circumstances of the child's parentage. If she does not do this, sanctions must be applied (see Sanctions Chapter).

- IV-D must be notified of the current status of the case and other appropriate changes (if any) must be made in the assistance unit/payment.

Interview held with the child's mother (grantee relative) should always be face-to-face and conducted in privacy. If at all possible, the child in question/other children should not be present.

Sensitive but persistent probe interviewing will probably be required to elicit the kinds of information necessary to enable the caseworker to make a decision as to whether the client is cooperating in the matter of paternity/child support, whether the client chooses to claim good cause for failure to cooperate, whether good cause exists, and the appropriate action to take.

A glib naming of another man, or a statement of "I don't know" is not acceptable by itself. Information about the circumstances surrounding the child's conception, the mother's life style,

why the original man was named, whether the possibility of different parentage exists, and so on must be elicited and recorded.

DEATH

Deprivation because of death of one or both parents must be documented in the eligibility and case management system. Verification of death may be obtained through any of the following sources:

- Death certificate.
- Physician's report or statement.
- Funeral home records.
- Cemetery records.
- Newspaper notices.
- The Division of Vital Records.
- Statements from persons in a position to know.

INCAPACITY

POLICY STATEMENT

The assistance unit meets the Families First deprivation requirement when both parents live in the home with the child if one of the parents is incapacitated. "Physical or mental incapacity" of a parent shall be deemed to exist when one parent has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child and be expected to last for a period of at least 30 days. In making the determination of ability to support, the agency shall take into account the limited employment opportunities of handicapped individuals.

Incapacity exists if the mental or physical defect, illness, or impairment reduces substantially the parent's ability either to provide financial support for the child or to provide for the child's day-to-day physical care or guidance. Therefore, "incapacity" exists in either of the following circumstances:

- If the defect, illness, or impairment eliminates or substantially reduced the parent's ability to work, regardless of whether the person retains the ability to perform other parental functions. Examples include cases where there has been a significant reduction in a parent's work-relevant physical or mental capacities, or in earnings (either because of a reduction in hours worked or rate of pay) due to the defect, illness or impairment.

- If the person's capacity to work is not reduced, but the defect, illness or impairment. Substantially reduces his or her ability to provide day-to–day physical care or guidance for the child.

In determining whether incapacity exists under either test, the parent's usual or assumed family function is irrelevant, and shall not be considered.

VERIFICATION

Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information. For example, RSDI or SSI information is available on Clearinghouse. Therefore, it would be more reasonable for the caseworker to obtain this information.

The following are acceptable verifications of incapacity determination established by receipt of disability benefits:

- Information from Clearinghouse that verification that the RSDI and/or SSI are based on disability or blindness.

- Written verification that the individual receives RSDI, SSI, VA or Black Lung based on disability or blindness, such as an award letter.

- When incapacity is determined by the MEU, the following verifying documents must be obtained.

  - Hospital admission and discharge summaries.

  - Treatment summaries from the individual's treating physicians for the past two years.

  - Any other pertinent medical information for the past two years.

DOCUMENTATION

All appropriate eligibility and case management screens must be completed regarding the incapacitated individual's circumstances, the verifications obtained to substantiate the incapacity, information sent to the MEU and MEU or appeal decisions that affect the determination of incapacity. In addition, any extenuating or pertinent information must be documented in the case management and eligibility system.

PROCEDURES

Incapacity is deemed to exist, and may be approved at the county level, only when an individual receives one the following benefits:

- RSDI or SSI based on his/her disability;

- VA benefits based on his/her 100% disability;

- Black Lung benefits based on his/her own condition;

If a recipient whose incapacity was verified by receipt of RSDI, SSI, VA, or Black Lung disability benefits loses these benefits, this is not acceptable proof that incapacity no longer exists for Families First purposes. These recipients will remain eligible for Families First benefits if they continue to claim incapacity, while obtaining and submitting the necessary medical and medical-social information to substantiate their claim. Action to secure this information and submit it for evaluation must be taken promptly. This provision does not apply to applicants. Applicants must follow the normal process for establishing incapacity prior to approval.

Eligibility on the basis of incapacity may be approved or continued at the local level without additional medical evaluation for an individual who received RSDI or SSI disability payments when the payment changes from disability to retirement benefits without a break in benefits. This occurs at age 62 for RSDI and age 65 for SSI. The Department of Human Services supervisor must approve the incapacity in this situation and there must be verification that the individual was receiving disability benefits prior to the change.

The Medical-Social Information Interview Guide will help the caseworker in securing the appropriate medical-social information. The Medical Social Information Guide must be completed and submitted in its entirety. However, the following questions should be answered to ensure that the caseworker obtains and submits the needed information to the appropriate individuals for incapacity determination.

- Did the caseworker interview the incapacitated person? If not, why? Who was interviewed? What is the relationship of the interviewee to the incapacitate person?

- Did the caseworker properly document the required information such as name, SSN, grade level attained, birth date, etc.?

- Was a complete employment history obtained specifying type of work activities?

- Was information obtained about all of the individual's complaints?

Sending the Medical Packet to the MEU:

If the parent does not receive any of the above mentioned benefits, the DHS caseworker must interview the individual and collect and record the data electronically.

In order for MEU to determine incapacity, all technical eligibility issues must be addressed in the local DHS office before sending the medical packet to the Medical Evaluation Unit for an incapacity decision. When technical and financial eligibility is established and an incapacity decision is required, the county caseworker will:

- Submit copies of the completed MEU medical-social narrative.

- Submit ten (10) <u>signed and dated</u> HIPAA Authorization for Release of Information forms (HS-2557 – English or HS2557S – Spanish). These forms must be completed in full and must be specific as to what information the client is permitting to be released.

- Give the client a copy of the HIPAA privacy notice.

- **Complete the MEU Information Checklist:**

- Ask if the client has either seizures or chest pain and complete the seizure and/or chest pain questionnaire(s) if the client complains of either.

- Document any extenuating or pertinent information in the case record.

The caseworker will complete the medical-social interview no later than the 2nd day from the date of the individual's application/renewal interview or no later than the 2nd day from the date the incapacity is claimed, when reported at a later date. The caseworker will mail all of the above items to the Medical Evaluation Unit within 1 day of the completion of the medical-social narrative. **(Bulletin No. 45, FA-08-32)** Mail the packet to:

Medical Evaluation Unit
Tennessee Department of Human Services
400 Deaderick Street
Nashville, TN 37243

NOTE: The participant is exempt from the work requirements during this process.

Expedited Referrals to the MEU:

The DHS caseworker should note on the MEU DATA SHEET "EXPEDITED STATUS" for the following:

- Metastatic cancer - include hospital admission and discharge notes, pathology (biopsy) report, operative notes, etc.

- Other malignant diseases such as, Hodgkin's disease, lymphoma, leukemia, melanoma, and sarcoma, etc. Include the same medical data as listed above.

- AIDS/HIV+ - include current medical data verifying acute and chronic symptoms such as diarrhea, weight loss, recurrent infections, fatigue, etc.

- Chemotherapy – include current medical data to verify severe side effects such as nausea, vomiting, diarrhea, weight loss, recurrent infections, etc.

- Severe head injury - include hospital data.

- Severe spinal cord injury, quadriplegic, paraplegic - include hospital data.

- Severe renal (kidney) failure and/or hemodialysis - include hospital records.

- Severe coronary artery disease - include hospital data verifying heart attack, myocardial infarction, strokes.

- Severe emphysema/COPD (chronic obstructive pulmonary disease) - include hospital data.
- Acute (not chronic) leukemia - include pathology report to verify diagnosis.
- Immediate threats of suicide - include current medical data from the hospital or mental health provider to verify.
- Active TB.

Evaluation of the Treating Physician's Findings and Recommendations:

The designated MEU staff may place considerable reliance on the treating/examining physician's and/or mental health provider's findings/recommendations as to whether or not a physical/mental defect, illness, or impairment exists.
The physician's findings must include:

- A diagnosis and clinical/medical/mental health evidence to support the diagnosis.
- A prognosis that appears to be reasonable in light of the diagnosis.

A "prescription pad" statement or a letter from a physician without supporting medical evidence is not acceptable.

The decision that incapacity exists according to definition is a programmatic one. The decision must be made based on the medical and/or mental health findings/recommendations as they apply to a particular person and his/her ability to continue his/her current employment/care activities. The MEU decision is binding on the DHS county office.

Reconsideration of Incapacity Decisions:

If the individual expresses his/her disagreement with the MEU decision, he/she should be helped to file an appeal. MEU denials will not be reconsidered when an individual disagrees with the MEU decision. The only exception is when previously requested medical information is received by the MEU within 40 days of the MEU decision.

If previously requested medical information is received within 40 days of the MEU decision, the MEU may approve or deny incapacity, or may request one or more specialist examinations or other information. If the MEU approves incapacity, give the individual an opportunity to withdraw his/her appeal request using the Withdrawal of Complaint. If the MEU denies incapacity, then the appeal process will continue. Upon notification from the MEU of the decision, the DHS caseworker will promptly notify the individual and his/her legal representative, if any, and take action as shown above for approvals or denials.

If the individual submits a request for reconsideration after 40 days from the initial decision, the request will be treated as an initial incapacity request. The DHS caseworker will follow the existing incapacity determination process. To assure that an individual has the opportunity to file an appeal within 90 days of the action to deny or terminate, an appeal request should be filed by the individual at the same time the incapacity request is made. **(Bulletin 12, FA-08-27)**

Incapacity Determination by Appeal:

When an incapacity decision has been appealed, implement the final order as approved by the Director of Appeals.

Review of Active Incapacity Cases:

Incapacity must be re-evaluated at the end of the approval period following procedures described for applications. If the individual states that he/she is no longer incapacitated and asks for case closure, medical re-evaluation is unnecessary. The DHS caseworker is responsible to contact the applicant 30 days prior to the end of the MEU approval period. Eligibility continues until a decision on continued incapacity is made. The DHS caseworker will re-evaluate all eligibility criteria and determine if an incapacity decision is still needed. If incapacity is still needed; then, the DHS caseworker will:

- UPDATE and complete the MEU medical-social narrative and send MEU copies.

  Complete ten (10) signed and dated HIPAA Authorization for Release of Information forms (HS-2557 – English or HS2557S – Spanish). These forms must be completed in full and must be specific as to what information the client is permitting to be released.

- Give applicant a copy of the HIPAA privacy notice.

- Complete the MEU Information Checklist.

- Ask applicant if he/she has any seizure or chest pain complaints.

Complete the following questionnaire(s), if appropriate:

- Seizure Questionnaire.

- Chest Pain Questionnaire.

The DHS caseworker will mail all of the above items to the Medical Evaluation Unit **no later than 7th day from the beginning of the Active case re-review process.**

In addition, any extenuating or pertinent information must be documented on in the eligibility and case management system.

MEU Release of Information Procedures:

The Health Insurance and Portability Act, HIPAA, of 1996 was passed by Congress effective April 11, 2003. This comprehensive Federal regulation is aimed at protecting the confidentiality of our clients' medical records and health information. Primarily, the privacy rule sets standards which govern the use and disclosure of private health information (PHI), gives clients new privacy rights regarding access to and use of their medical records, and imposes responsibilities on health care providers (doctors, nurses, hospitals, mental health agencies, etc.) and Federal and State agencies that obtain PHI. (Please refer to the General Administrative Procedures Chapter of this Manual for detailed information on HIPAA.)

The following HIPAA forms can be found on the DHS Intranet and the DHS GroupWise Default Library:

- HIPAA Authorization for Release of Medical/Health Information (English) (HS-2557).
- HIPAA Authorization for Release of Medical/Health Information (Spanish) (HS-2557S).
- HIPAA DHS Privacy Notice (English) (Authorization No. 345711).
- HIPAA DHS Privacy Notice (Spanish) (Authorization No. 345714).
- TDHS HIPAA Authorization for Release of Medical/Health Information to a 3rd Party (English) (HS-2939).
- TDHS HIPAA Authorization for Release of Medical/Health Information to a 3rd Party (Spanish) (HS-2939S).

Protected health information includes:

- Name.
- Address.
- Social security number.
- Date of birth.
- Fingerprints.
- Photograph.
- Names of relatives.
- Employer.
- Telephone number.
- Medical record number.
- Health plan number.
- Enrollment status/program eligibility data.
- Certification/license number.

This law requires DHS to maintain the privacy of our applicants and recipients by not releasing their individually identifiable health information and enrollment status to anyone except the applicant/client, unless they provide us written permission, or unless otherwise permitted by HIPAA regulations.

The MEU Incapacity Unit or the local DHS office can make copies of medical/mental health data as long as there is a signed and current (within the last 60 days) 3rd party HIPAA Release of Information form from the client. However, these copies should not be given directly to the client. They should be mailed from the MEU Incapacity Unit or the local DHS office to the client's lawyer, doctor, or agency (such as DDS) that has requested the information in writing and has sent a signed release form with the proper address to which the information is to be mailed.

It is important to keep a copy of the request letter and signed release in the DHS and/or the MEU case file to serve as evidence regarding confidentiality issues. The client also has a right to request a copy of the information that is released to a 3rd party.

MEU Forms:

These MEU forms are in the GroupWise Default Library

- MEU Information Checklist
- MEU Seizure Questionnaire
- MEU Chest Pain Questionnaire

Other MEU Issues:

- When the MEU has made a decision, the entire Incapacity medical packet (including the MEU decision sheet and all medical/mental records) will be returned by US mail to the local DHS office for archiving.
- If the Incapacity case was denied by MEU and the applicant disagrees with the MEU decision, he/she should be helped to file an appeal. **(Bulletin 12, FA-08-27)**
- Once an MEU decision is made on the case, MEU staff will mail, directly to the applicant, a copy of the MEU Decision Sheet with an MEU Cover letter stating that a DHS decision has been made. The MEU Cover letter instructs the applicant to contact the local DHS caseworker for any questions.
- If MEU approved the incapacity, thirty (30) days PRIOR to the end of the approval period:

  The caseworker will:
  - Contact the applicant to come the DHS office for an interview
  - Complete new Medical/Social (ACCENT) Information screens with updated information;
  - Complete a new MEU Information Checklist form;
  - Include 10 new HIPAA release forms (signed & dated);
  - Give the applicant a new HIPAA Privacy notice; and
  - Mail the newly complete Incapacity medical packet (including all previous medical/mental records with the decision sheets) to the MEU

UNEMPLOYED PARENTS

POLICY STATEMENT

When both parents are in the home, the assistance unit will meet the deprivation requirement for Families First if the principal wage earner parent:

- Is an unemployed parent (as defined in this section).
- Is not on strike.
- Has a labor market connection.
- Has not refused, without good cause, a bona fide offer of employment or training for employment.
- Has not refused to apply for or accept UC to which he/she might be entitled.

EXCEPTIONS

If a families First caretaker marries the parent of an AU child while the caretaker is receiving assistance and the parent's income after deducting child support payments is less than 185% of the AU size GIS, the AU is exempt from the unemployed parent requirements. The AU will remain exempt from these requirements until the Families First case closes. If the case closes for any reason and the AU later reapplies, the AU must meet all unemployed parent requirements at that time.

In addition, a PWE who is full-time VISTA volunteer is exempt from the 100 hour rule (see 100 hour rule discussed in the Procedures section of this chapter) and the bona fide offer of employment rule. They must meet all other unemployed parent criteria.

GOOD CAUSE

The PWE must not have refused, without good cause, a bona fide offer of employment or training for employment. Good cause for refusing such employment or training include:

- Illness of a more serious nature than a common cold.
- Illness of AU parent or child and the PWE is the only available caregiver.
- Lack of transportation.
- The job is not within the documented physical or mental capability of the person.
- The wage is less than the minimum wage.
- The job poses an unreasonable risk to the health or safety of the person.

VERIFICATION

Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information. For example, it would be more reasonable for the caseworker to obtain information regarding the bona fide employment offer made through JTPA since the Department of Human Services contracts this service with JTPA.

Verify the parent's status as PWE, his/her employment or lack of employment and labor market connection, good cause information and any other pertinent or questionable information that would affect the AU's eligibility.

Substantiate the amount of earnings of the parents when establishing the PWE by any means accessible. Income tax returns, copies of W-2 forms, employer's records, wage match, check stubs are good sources of verification, but if these are not obtainable use any other means available.

It is not necessary to verify the exact amount of the earnings to determine the PWE's labor market connection. However, it is necessary to verify that the PWE earned at least $50 per quarter when earnings are the basis of this determination.

DOCUMENTATION

All information regarding deprivation based on unemployed parent criteria must be documented on the appropriate eligibility and case management screens. Any pertinent information to explain good cause, unusual circumstances or to explain caseworker's decisions in the case must be entered in the eligibility and case management system.

PROCEDURES

To determine deprivation for a Families First unemployed parent, first determine which parent is the principal wage earner (PWE). Follow the steps listed below:

- Determine the total gross income earned by each parent during the 24 month period immediately preceding the application month.
- Consider the total 24 months of earnings for each parent in the home regardless of when their relationship with each other began.
- If only one parent had earnings during the 24 month period, designate this parent as the PWE.
- If both parents had earnings during the 24 month period, determine which parent had the greater amount of earnings during the period. Designate that parent as the PWE.
- If both parents had the same amount of earnings during the period, the caseworker and the family will designate the PWE.

The PWE designated at application remains the PWE during each consecutive month that assistance is received. However, if the case is closed and the parents later reapply, the PWE will be determined by the family's circumstances during the 24 months preceding reapplication.

Once the PWE has been designated, he/she must meet all of the following conditions to qualify as the unemployed parent:

- The PWE parent must be unemployed, by definition in this section, and have been unemployed for 30 days prior to receipt of assistance. If employment was lost or terminated less than 30 days prior to application the PWE must complete the 30-day period before an assistance payment can be made. Payment will begin the date eligibility is attained in this instance rather than the date of application. Begin the 30-day count with the first day after the job loss.
- The PWE must not be on strike. If unemployment is caused by participation in a strike, the AU is not eligible for Families First.

- The PWE must not refuse to apply for or accept UC to which he/she might be entitled. If the PWE refuses to apply for or accept UC benefits, the AU is not eligible for Families First.

- 100 Hour Rule - If the PWE is working 100 hours or more in the month of application, determine the number of hours worked in each of the two months prior to the application. Then determine the number of hours likely to be worked in the month following the month of application.

  - If the PWE worked fewer than 100 hours per month in each of the two months prior to application and is expected to work fewer hours in the month following application, the 100 hours rule is met.
  - If the PWE either worked 100 hours or more in one or both months prior to application or expects to work 100 hours or more in the next month, the 100 hour rule is not met and the AU is not eligible for Families First.

A labor market connection can be established in either of the following ways:

- The PWE is currently receiving unemployment compensation payments or received at least one UC payment during the 12 months immediately preceding the application month.

- The PWE earned at least $50 in each of any six quarters within a 13-quarter period ending within one year prior to application. Full-time attendance in an elementary or secondary school or in vocational/technical training or participation in a JTPA project may be substituted for earnings for a maximum of four of the required six quarters.

The caseworker must choose one quarter out of the four quarters preceding the quarter in which the application was filed to start the count for the 13 quarters. If the PWE had at least $50 in earned income during six of those quarters (or was attending an elementary or secondary school or in vocational/technical training, or was participating in a JTPA project for not more than four of those six quarters), then he/she meets the labor market connections for the unemployed parent deprivation requirement. When choosing the quarter in which to start the count, the caseworker must choose the quarter that will be to the client's advantage.

The exact amount of earnings does not need to be established, but it must be verified that the earnings were at least $50 for each quarter.

Example: The AU applied for Families First benefits based on unemployed parent Deprivation criteria in the third quarter of 1996. The PWE had $50 earnings in the second quarter of 1996 and the third quarter of 1995. Since both quarters are in the four quarters immediately preceding the quarter in which the application was filed, the caseworker must then determine which one to use for the start of the 13 quarter count by looking at the earnings, etc., for the remaining quarters to determine which quarter is to the PWE's advantage. (See chart below)

1996

1	2	3	4
	$50	X	

1995

1	2	3	4
		$50	

1994

1	2	3	4
	$50	$50	

1993

1	2	3	4
			$50

1992

1	2	3	4
	$50	$50	$50

In this example, the PWE had earnings in two of the four quarters prior to the quarter in which the application was filed. When counting back 13 quarters, the caseworker discovers that if the 2nd quarter of 1996 is used as the starting quarter, the PWE has only earnings in only five of the 13 quarters. However, if the third quarter of 1995 is used to start the count, the PWE had earnings in six of the 13 quarters and thereby meets the labor market connection requirement. Therefore, third quarter of 1995 should be used to establish the 13-month count. If the PWE meets the unemployed parent definition, then the AU meets the Families First deprivation requirement.

STRIKERS

POLICY STATEMENT

A strike is a concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slow-down or other concerted interruption of operations by employees.

An individual is "participating in a strike" if he/she refuses in concert with others to provide services to one's employers.

If a Families First parent with whom the children live is participating in a strike, the entire aid group is ineligible for as long as the parent is on strike.

If an AU member other than a parent is participation in a strike, that individual is ineligible for assistance as long as he/she is on strike.

If payment of Families First benefits has already been made for any month(s) in which a parent or other assistance unit member participated in a strike as of the last day of the month, the payment (or the individual's share) for the entire month constitutes an overpayment subject to recovery.

PERSONAL RESPONSIBILITY PLAN

POLICY STATEMENT

The Personal Responsibility Plan (PRP) is an agreement between the Families First participant and the Department of Human Services that is completed for each Families First assistance unit. In this agreement, the Families First participant agrees to take certain steps to move the AU to self-sufficiency. In return, the Department of Human Services agrees to provide temporary cash assistance and child care, if needed, to help the caretaker/parent to gain employment.

The PRP development is started by the caseworker. The caseworker will explain the basic requirements that are included in all PRPs. If a client has a work requirement he/she will be referred to a client representative who will complete the PRP process.

Each assistance unit adult must agree to sign and comply with the individualized PRP. If there are two adults in the AU, each one must sign his/her own PRP. A minor parent must also sign an individualized PRP whether or not he/she is the caretaker of the case**.**

Signing the PRP:

- If an adult or the minor parent who is the caretaker of his/her own AU refuses to sign the PRP, the entire AU will be ineligible for Families First benefits.

  NOTE: Refusal to sign a PRP **does not** result in a Food Stamp penalty for an applicant. No penalty can be applied if the case was not approved for Families First.

- If a minor parent who is a dependent child in the AU refuses to sign a PRP, his/her needs will be removed from the AU.

- If an adult refuses to sign the PRP at application and there is no minor parent in the AU, the case will be denied.

- If an adult refuses to sign the PRP at application and there is a minor parent in the home, the AU will fail and the case will trickle to create a Families First AU for the minor parent. If the minor parent agrees to sign/comply with the PRP, a case can be established with him/her as the caretaker for himself/herself and his/her child.

- If the adult later decides to sign and comply with the PRP, he/she can reapply at any time.

- If an adult agrees to sign the PRP and the minor parent in the home (who is not a caretaker) refuses to sign, the AU will not fail. If the adult in an **active** AU refuses to sign the PRP, the AU will be closed and TCC will be set. Minor parents in the AU who wish to apply for Families First for themselves and their children can do so.

- An Authorized Representative cannot negotiate, renegotiate or sign a PRP on behalf of a participant. This activity must be done with each AU adult and minor parent who is caretaker of his/her own case.

The Personal Responsibility Plan Agreements:

The caseworker will discuss the following PRP agreements with the client:

- The participant agrees to keep immunizations and health checks up to date for all AU children.
- The participant agrees to ensure that all AU children attend school, including kindergarten.
- The participant agrees to cooperate with Child Support Services to establish paternity, locate the absent parent, enforce collection of court ordered child support, and assign child support to DHS.
- The participant agrees that minor parents will live in the home with parents or another authorized responsible adult.
- The participant agrees, unless exempt, to participate in work, work preparation, educational or training activities. This agreement applies to eligible adults and/or minor caretakers in the AU.

If the individual is already in compliance with some of the Personal Responsibility Plan requirements, such as immunization, school attendance, employment, etc. at the time of the interview, verification will be required prior to approval.

It is the responsibility of the caseworker to complete the Personal Responsibility Plan with the clients listed below. The caseworker retains responsibility for getting the PRP signed and approved for:

- Cases that are work exempt.
- Child only cases.

Cases that have a work requirement are referred to client representatives. It is the responsibility of the client representatives to complete the PRP for all clients with a work requirement. The client representative will fully explain the 30-hour work requirement. Once the client has signed his/her PRP, the client representative will approve the case and refer the client on to the FF work activity contractor.

Renegotiating the PRP Work Plan:

There will only be rare circumstances that will require the renegotiation of the PRP. It is the responsibility of the FF work activity contractor to work with the clients to develop their Individualized Work Plans. Because the PRP on file with the client representative lists a generic 30 hour work requirement, changes in activities or support services no longer require the renegotiation of PRPs. Should a client become work exempt and therefore be referred back to the caseworker, a new PRP would be negotiated at that time to reflect the change from a work requirement to a work exemption. A new PRP would also be negotiated for work exempt clients no longer eligible for an exemption. **(Bulletin 29, FA-08-21)**

The PRP will be printed from the eligibility and case management system each time the plan is initiated or renegotiated and the Families First participant will sign the printed PRP.

A renegotiation is not required at the yearly Families First renewal.

EXCEPTIONS

There are no exceptions to this requirement for AUs requesting temporary assistance through the Families First program.

GOOD CAUSE

There are no good cause provisions for failure to sign a PRP. Good cause for failure to comply with specific activities of the plan will be evaluated according to the plan requirements and the individual assistance unit's circumstances.

VERIFICATION

The specific activities on the PRP have different verification requirements. Please refer to the specific policy section for details regarding verification requirements.

DOCUMENTATION

Information for the PRP will be collected and documented through a series of PRP screens in the eligibility and case management system. Additional documentation that is not screen specific will be documented in the comments section of the eligibility and case management system.

PROCEDURES

When the eligibility and case management system groups a potentially eligible Families First AU, the caseworker must explain the PRP requirements, work requirements, time limits, and sanctions and penalties to the caretaker, any other eligible adult in the AU, and any minor parent. Each of these participants must begin the development of a PRP with the caseworker.

Refer clients who have a work requirement to the client representative who will assist the client with the PRP completion, approve the case, refer the client to the work activity contractor to complete the Individualized Career Plan, and refer the client to the child care certificate worker, if child care is needed.

IMMUNIZATION AND HEALTH CHECKS

POLICY STATEMENT

To receive Families First benefits, caretakers and parents must ensure that all AU children receive their health checks in accordance with the check-up schedule provided by the Department of Health. A chart reflecting this schedule is included at the end of this chapter.

Caretakers and parents must also ensure that AU children receive their immunizations in accordance with the schedule provided by the Department of Health and used by the Department of Education for school enrollment. A chart reflecting this schedule is also included at the end of this chapter.

Review immunizations and health checks as a part of the initial PRP process and at each subsequent renewal.

If the Families First participant refuses or fails to have an immunization and/or health check for a child, reduce the Families First payment by 20% unless certain circumstances exist. Only one 20% sanction will be imposed, regardless of the number of children who are not immunized or who have not had a required health check. In addition, there will be only one 20% sanction if both the immunization and the health check requirements are not met.

The 20% penalty will remain in place until the AU is in compliance with the immunization and health check requirements. This reduction will be removed the next possible calendar month following the AU's compliance with this requirement. Refer to the Sanctions Chapter.

EXCEPTIONS

The only children who are exempt from the immunization and health check requirements are those who have been exempted or would be exempted by the Department of Education. Children will be exempt from the immunization or health check requirement if:

- The child's physician or the Department of Health provides a signed and dated statement giving a medical reason why the child should not be given a specified immunization.

- The child's caretaker/parent makes a clear statement that such immunizations or health checks conflict with the client's religious tenets and practices.

GOOD CAUSE

Good Cause for a delay in obtaining immunizations or checkups will be granted for the reasons listed below:

- The child is ill and the health care provider recommends delaying immunization until the child is well.

- A health care provider does not respond to requests for information to document immunization or checkups.

- A caretaker has made a good faith effort to schedule checkups or immunizations within one month, but has not been able to do so because of circumstances beyond the caretaker's control.

- There are other extenuating circumstances that could delay immunization or checkups.

VERIFICATION

Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information.

Immunizations and health checks will be verified by the following:

- Health Department records.

- "Shot" records.

- Medical records.

- Statement from a physician.

Enrollment in a public school or a licensed child care facility is presumptive verification of immunizations only. Schools and licensed child care facilities require immunizations for enrollment or exempt the child(ren) from the immunization requirement.

Health checks required according to the EPSD&T schedule must be verified by the above methods.

If an exemption for a medical reason is claimed, obtain a statement that explains the medical reason for not giving or delaying a specified immunization or checkup. The statement must be signed and dated by the child's physician or the Department of Health.

DOCUMENTATION

Document the appropriate eligibility and case management system screens regarding:

- Whether or not the immunizations and health checks are current for each child.

- What specific immunizations or health checks are missing, if any.

- The verifications used to show that immunizations and health checks are up to date.

- Any exemptions and how they were substantiated.

- Any extenuating circumstances that affect the child's immunizations or health checks.
- The circumstances of any decisions made based on these circumstances.

- When the last immunizations and/or health checks were completed.

- When the next immunization and/or health check is due for the child(ren). This information needs to be documented at each renewal so that it will be readily available at the next renewal.

PROCEDURES

When discussing the Personal Responsibility Plan, explain immunization and health check policy. Immunization and health checks are components to be included as part of the Personal Responsibility Plan, unless good cause exists for their exclusion. Address compliance with these requirements at each application and renewal.

Evaluate immunizations and health checks at each application, reapplication and at all renewals. If a child does not have the required immunizations and/or health checks and the participant **agrees to have** the child immunized and/or have a health check, then:

- Add the immunization and/or health check activity to the eligibility and case management system.

- Enter an expected completion date. One month is generally sufficient, but take the individual's situation into consideration. Use prudent judgment when setting the expected completion date and allow the individual adequate time to complete the activities.

- Review the plan and activities immediately prior to the expected completion date to ensure that the AU has complied with the requirement. Follow-up accordingly.

If a child does not have the required immunizations and/or health checks and the participant claims that there are **medical reasons** for this, then:

- Request the required verification in writing.

- Document the eligibility and case management system case regarding the good cause reason and verification.

- Set an expected change alert for re-evaluation if the reason is of a temporary nature.

- Continue benefits, without sanction.

If the participant claims that the child should not be immunized for **religious reasons** document the participant's statement regarding this situation and continue benefits without sanction.

Apply the 20% sanction beginning the next possible month after the ten-day adverse action notice **if**:

- A child does not have the required immunizations and/or health checks, **and**

- The participant does **not agree** to take other action to have the child immunized and/or have a health check, **and**

- The exception and/or good cause reasons **do not apply**.

PERIODIC SCHEDULE FOR EPSDT CHECK-UPS/SCREENINGS

INFANCY	MIDDLE CHILDHOOD
AT BIRTH	5 YEARS OLD
2-4 DAYS OF AGE	6 YEARS OLD
1 MONTH OLD	8 YEARS OLD
2 MONTHS OLD	10 YEARS OLD
4 MONTHS OLD	
6 MONTHS OLD	
9 MONTHS OLD	
12 MONTHS OLD	
EARLY CHILDHOOD	ADOLESCENCE
15 MONTHS OLD	11 YEARS OLD
18 MONTHS OLD	12 YEARS OLD
24 MONTHS OLD	13 YEARS OLD
3 YEARS OLD	14 YEARS OLD
4 YEARS OLD	15 YEARS OLD
	16 YEARS OLD
	17 YEARS OLD
	18 YEARS OLD

Recommended Childhood Immunization Schedule
United States, January-December 2001

Vaccines are listed under routinely recommended ages. **Shaded bars** indicate range of recommended ages for immunization. Any dose not given at the recommended age should be given as a "catch-up" immunization at any subsequent visit when indicated and feasible. **Clear boxes** indicate vaccines to be given if previously recommended doses were missed or given earlier than the recommended minimum age.

Age → Vaccine ↓	**Birth**	1 mo	2 mos	4 mos	6 mos	12 mos	15 mos	18 mos	24 mos	4-6 yrs	11-12 yrs	14-18 yrs
Hepatitis B	Hep B #1											
		Hep B #2										
					Hep B #3							
Diphtheria, Tetanus, Pertussis			**DTaP**	**DTaP**	DTaP		DTaP			DTaP	Td	
H. influenza type b			Hib	Hib	Hib	Hib						
Inactivated Polio			IPV	IPV	IPV					IPV		
Pneumococcal Conjugate			PCV	PCV	PCV	PCV						
Measles, Mumps Rubella						MMR				MMR		
									Var			

Varicella						Var					
Hepatitis A									Hep A – in selected areas		

An **age range** is given for some immunizations. For instance, the first Hepatitis B immunization can be given anytime from birth through 2 months. A Families First participant would not be out of compliance for not completing this immunization until after the child is two months old.

SCHOOL ATTENDANCE

POLICY STATEMENT

To receive Families First benefits, all school age children in the AU must attend school, including kindergarten. However, the penalty for non-compliance with school attendance differs depending on the child's circumstances. Minor children who are not parents are treated differently than minor children who are parents, regardless of marital status of the minor parent.

- Minor children who are not parents who fail/refuse to attend school without good cause, will cause the Families First cash benefits to reduced by 20%.

- Minor parents who are ECs who fail/refuse to attend school without good cause will have their needs removed from the Families First cash payment.

- If the child is a minor parent and a dependent child in an AU and has not completed his/her high school education or its equivalent, he/she must attend school, prepare for a GED or attend a state approved alternative educational or training program.

- If the child is a minor parent caretaker of his/her own case, he/she has the option of attending school or participating in a 30 hour work activity.

As a parent, the minor parent is required to sign a Personal Responsibility Plan. School attendance is considered a work activity for a minor parent. Therefore, he/she is eligible for child care services to meet the Personal Responsibility Plan commitment.

When a sanction is necessary only one 20% reduction sanction will be applied for noncompliance with the educational requirement, regardless of the number of children in the AU who do not comply. However, a 20% sanction for children who are not parents and the removal of a minor parent can be applied at the same time, if appropriate.

EXCEPTIONS

The school attendance requirement does not apply to:

- Children under age 5.

- A minor parent whose youngest child is in the home and is under 16 weeks of age.

- Children who are being educated in a home school or a home bound program that has been approved by the Department of Education.

- Children who have been determined to be severely physically/mentally impaired to attend school.

GOOD CAUSE

Good Cause for non-attendance will be granted for:

- A verified illness that prohibits attendance.
- Suspension from school with re-entry forbidden and no alternative school available.
- Removal of the child from the school by the courts.
- Other verified situations which prevent attendance.

VERIFICATION

School attendance and good cause must be verified at each application and review. If there is a school attendance activity on the AU's Personal Responsibility Plan, this must also be addressed at the anticipated completion date on the Plan.

Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information. For example, in some counties, the Board of Education or the school system may work out an arrangement for the Department to obtain school attendance verification to facilitate access to the needed information. In this case it would be more reasonable for the caseworker to obtain the verification of school attendance.

School attendance will be verified by school records. Illness or a severe physical or mental handicap that prohibits school attendance will be verified by a statement from the child's physician or other medical records. If the child claims good cause because of suspension, both suspension and the lack of an alternative school must be verified by the Department of Education or school. Court records can be used to verify removal of the child from the school by the court.

DOCUMENTATION

The appropriate eligibility and case management system screens must be documented regarding the school attendance status for each child. In addition, documentation about exemptions, good cause determination, sanction decisions and any other pertinent information about school attendance of any child must be documented on the eligibility and case management system running record comments screen.

PROCEDURES

The Families First school attendance requirement and penalties must be explained to the applicant/recipient at the time that the Personal Responsibility Plan is presented to him/her.

The caseworker will address and verify school attendance at:

- Each application when the Personal Responsibility Plan is signed.
- The annual renewal.

If the application/renewal occurs during a regular school break and consequently the child is not currently enrolled in school, the caretaker/eligible adult must agree to ensure that the child is enrolled and attending school during the next regular session.

The Personal Responsibility Plan in the eligibility and case management system will include school enrollment as an activity with an expected completion date.

Failure to Comply - Minors Who Are Not Parents:

For detailed instructions for applying sanctions to the AU when an individual fails to comply with the school attendance requirement, see the Sanctions Chapter.

- If the child fails to attend school as required, the caseworker will contact the caretaker to determine if the information is correct or if good cause exists.
- If good cause exists and is verified, the caseworker will continue the benefits.
- A formal conciliation is not required.
- If good cause does not exist, the caseworker will complete the appropriate eligibility and case management system screens to implement the 20% reduction in benefits sanction.
- If the AU later complies, the caseworker will remove the sanction the next possible month.

Failure to Comply - Minor Parents Who Are ECs or EAs in an AU:

For detailed instructions for applying sanctions to the AU when an individual fails to comply with the school attendance requirement, see the Sanctions Chapter.

- If a minor parent who is an eligible child fails to comply with the school attendance requirement, the caseworker will remove the minor parent from the AU.
- If a minor parent who is an eligible adult (caretaker of his/her own case) fails to comply with the school attendance requirement or participate in a 30 hour work activity, his/her case will be closed.
- If good cause is established as a result of the conciliation process, the caseworker will continue benefits for the minor parent EC or reopen the case of the EA minor parent.
- If the minor parent does not have good cause, but is willing to comply, he/she must attend school for 5 days to be considered in compliance.

CHILD SUPPORT COOPERATION

POLICY STATEMENT

To be eligible for Families First benefits, the caretaker must cooperate with Child Support to:

- Identify the absent parent(s).
- Establish paternity, if necessary.
- Locate the absent parent(s).
- Pursue court-ordered support for each AU child.

The caseworker/client rep must explain that receipt of a Families First payment is an automatic assignment of the individual's child support and that all child support, either court ordered or voluntary, past, present and future, will be assigned to the Department to reimburse the state for Families First and AFDC benefits that the AU receives. They must also understand that any spousal support that was ordered at the time of the child support order will be assigned.

The child support cooperation requirements still apply if the Families First payment is not issued because it is less than $10 or is reduced to zero because of a recoupment.

If a caretaker, eligible adult, or minor parent who is the caretaker of an AU says at application they will not cooperate with child support, the application will be denied. This does not apply to a minor parent who is an eligible child in an AU who refuses to cooperate.

Sanctions will be applied when an AU refuses to cooperate with Child Support (IV-D), except in the case of a minor parent who is an eligible child in an AU who refuses to cooperate with child support. In that instance, the child support sanction does not apply. However, if a caretaker, eligible adult or minor parent who is the caretaker of an AU fails or refuses to cooperate with Child Support Services without good cause, the entire assistance unit will be ineligible for Families First benefits until the caretaker complies with the child support cooperation requirement.

The sanction for non-cooperation must not be applied until the child support worker has established that there are no extenuating circumstances that caused the non-cooperation such as illness, delay in mail, misunderstanding, etc., and the Families First caseworker has established that good cause does not exist. (See Sanctions Chapter for details.)

The caretaker is also required to submit any child support received for an AU child beginning with the month following the month that the AU is approved for Families First benefits. This is true whether the caretaker receives the child support directly from the absent parent, the court clerk's office, or from a third party (e.g., the absent parent's employer).

In addition, if a minor parent is the caretaker of his/her own Families First case, any support paid by an absent parent of the minor caretaker must also be forwarded to the State.

NOTE: Social security lump sum payments, based on an absent parent's disability, and received by a caretaker for an AU child are considered child support. These monies must be forwarded to Child Support. Failure to do so may result in possible fraud charges for not reporting the payment and not forwarding the money as required.

EXCEPTIONS

The following individuals are exempt from the assignment requirement for Child Support:

- Caretakers who receive voluntary payments made for an unborn child.
- "Caretaker Only" cases where the dependent child in the AU is not receiving Families First benefits because he/she is receiving SSI.

The following AU types are exempt from the cooperation requirement for Child Support:

- Single parent adoptions.
- An AU containing only a pregnant woman (child support cooperation will be required when the new born child is added to the AU).
- AUs in which "absence" is due to court-ordered public service in lieu of incarceration.
- Caretakers who have been determined to have good cause for refusal to cooperate with Child Support Services.

GOOD CAUSE FOR REFUSAL TO ASSIGN CHILD SUPPORT

There is no good cause reason for refusing to assign child support.

GOOD CAUSE FOR REFUSAL/FAILURE TO COOPERATE WITH CHILD SUPPORT

Good cause can be granted for refusal/failure to cooperate with Child Support Services **only** under the following circumstances:

- It is reasonably certain that there will be physical or serious emotional harm to the child for whom support is being sought as a result of the caretaker's cooperation. If the good cause claim is made based on emotional harm, an emotional condition must already exist that cooperation would likely result in an emotional impairment that would substantially affect the child's functioning.
- It is reasonably certain that there will be physical or serious emotional harm to the caretaker that would reduce his/her capacity to provide adequate care for the child. If the good cause claim is made based on emotional harm, an emotional condition must already exist that cooperation would likely result in an emotional impairment that would substantially affect the caretaker's functioning.
- Pursuit of the child support would be detrimental to the child because he/she was conceived as a result of incest or forcible rape.

- Adoption or termination of parental rights proceedings are pending for the child.

- The caretaker is being assisted by a public or licensed private social agency to decide whether to keep the child or relinquish for adoption. This good cause reason will be in effect for only three months.

VERIFICATION

All good cause claims must be verified. Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information. The following documents are acceptable for such verification:

- Birth certificates, medical records, or law enforcement records that indicate that the child was conceived as the result of incest or forcible rape.

- Court document or other records that show that adoption or termination of parental rights legal procedures are pending.

- Court, medical, criminal, child protective services, social services, psychological or law enforcement records that show that the absent parent may inflict physical or emotional harm to the child or caretaker if cooperation is required.

- A written statement from a public or licensed private social agency that the caretaker is being assisted by that agency to decide whether to keep the child or relinquish for adoption.

- Notarized statements from individual other than the caretaker that have knowledge of the good cause circumstances. The statements should include what he/she knows about the situation and how he/she is in a position to know about the circumstances.

In some instances, the caretaker may claim good cause for physical harm and there is no documentary evidence. For example, some battered individuals have not reported prior abuse because of fear or embarrassment. In these cases a determination must be made to determine the credibility and reliability of the caretaker. Good cause may be granted in these instances if the physical harm can be reasonably anticipated and the case is fully documented to substantiate this decision. These decisions must be approved by the supervisor prior to granting good cause.

If the caretaker's statements and evidence are insufficient to make a decision about good cause, the caseworker may contact the absent parent if necessary. However, before contacting the absent parent, the caseworker must inform the caretaker so that he/she can provide additional verification, withdraw the application or have the case closed or withdraw the good cause claim.

DOCUMENTATION

The appropriate eligibility and case management system screens must be documented regarding the absent parent(s) for each AU child. In addition, documentation about exemptions, good cause determinations and procedures, sanction decisions and any other pertinent information

about the child support requirements must be documented on the eligibility and case management system.

PROCEDURES

The Families First child support cooperation and assignment requirements, good cause process and penalties must be explained to the applicant/recipient at the time that the Personal Responsibility Plan is presented to him/her. In addition, a Tennessee Child Support Handbook will be given to the caretaker for future reference.

If the individual is receiving child support, the caseworker will document the amount of child support paid, up to the monthly current court ordered obligation, on the eligibility and case management system screen for unearned income. The income will remain on that screen as long as the absent parent continues to pay the child support, even after the money is being sent to the state. This will ensure that the income is budgeted properly at application or if an income change is subsequently reported. The Budget Effective Date on the absent parent screens will prevent the income from being counted in the ongoing Families First and Food Stamp budgets.

Upon approval of the Families First benefits, the information provided about the absent parents and good cause is transmitted to Child Support Services by the eligibility and case management system when the appropriate information is entered on the eligibility and case management system absent parent screens. Any changes to this information after approval will also be transmitted electronically to Child Support Services. In addition, the eligibility and case management system notifies Child Support Services when the Families First case is closed at the end of the adverse action period so that they can notify the caretaker about the status of the child support case and notify the court that current child support should be sent directly to the caretaker.

Individuals seeking child support for children who do not receive Families First benefits can obtain child support services through IV-D Child Support Services. The address and telephone number for the appropriate county Child Support Services office must be provided to these individuals upon request.

IV-D Reports to Family Assistance

If Child Support (IV-D) reports any information about the absent parent or the AU to Family Assistance, the caseworker must take prompt action to review the information, determine its impact on the AU and implement any necessary changes to the case. If IV-D reports that a named absent parent has been excluded by a DNA test, the caseworker must contact the caretaker to inform her that:

- The man that she named has been excluded as the father of the child.
- It is no longer acceptable for her to name the same man as the absent parent.
- She must name the true biological father.
- She must explain why she named the previous man.

- She must give a reasonable explanation of the true circumstances of the child's parentage.

If she does not do this, without good cause, sanctions must be applied. It is not acceptable for the mother to glibly name another man or merely state that she does not know the father's name.

Failure/Refusal to Cooperate With Child Support:

If the caretaker, parent of an AU child or minor parent who is caretaker of his/her own case has failed/refused to cooperate with Child Support, **the child support worker must determine whether there has been willful non-cooperation or if there are extenuating circumstances that caused the problem.** These circumstances may include but are not limited to illness, delay in mail, misunderstanding, etc. If the child support worker reviews the circumstances and concludes that the caretaker had extenuating circumstances, the child support worker will work with the individual to remedy the reason for non-cooperation: schedule a new appointment, court date, etc.

If the child support worker determines that the individual did not have a good reason for non-cooperation, the Families First caseworker will be notified.

Good Cause Determination Procedures:

If the caretaker, adult parent or minor parent who is caretaker of his/her own case claims good cause for non-cooperation, the caseworker must determine if the individual meets the good cause criteria for a waiver of the cooperation requirement **(see the criteria listed in the good cause section of this chapter).** If the individual's good cause claim meets our criteria, he/she must provide the required verification within 20 days after the claim is made. This time limit may be extended with supervisory approval in exceptional situations when the individual is having difficulty in obtaining the appropriate verification. A final decision on each good cause claim must be made within 45 days of the date the claim is made. This time standard may be extended only if the information required to verify or investigate the claim could not be obtained within the time limit or if the individual has been given additional time to obtain necessary verification. If the individual has complied with the requirements to establish good cause, Families First benefits will not be denied, delayed or discontinued pending the determination of whether or not good cause exists.

A good cause claim will be denied if:

- The individual does not furnish the required verification within the 20-day time limit unless this time frame is extended.

- The evidence submitted does not substantiate the claim and the caretaker/parent does not submit additional evidence.

- The individual has not provided information for an agency investigation, if necessary.

- The agency investigation establishes that the claim is not valid.

The results of a good cause investigation will be transmitted by the eligibility and case management system to Child Support (IV-D) when the pertinent information is entered on the

appropriate absent parent screens. In addition, the caseworker must notify the individual in writing about the good cause decision.

If the good cause claim is denied, the individual must be given the opportunity to cooperate, withdraw the application or have the case closed. If the individual continues to be non-cooperative, sanctions will be applied.

Once good cause is established, this decision must be reevaluated at renewal only if the circumstances on which it is based are subject to change. If the circumstances have changed, the individual must be given an opportunity to provide additional evidence to establish that good cause continues to exist. The same procedures used for the original good cause determination will be used to review the good cause decision. If the good cause determination is reversed, the caseworker will notify the individual that cooperation with IV-D is now required. The individual can claim good cause at any time if additional evidence becomes available and is presented to substantiate the claim.

Sanctions:

See the Sanctions Chapter for details on sanction procedures.

Support Collections Which Cause Ineligibility:

Child Support Fiscal Services will notify the caseworker when an absent parent pays court ordered current support in an amount that is equal to or exceeds the Families First payment amount. Upon notification, the caseworker must re-compute a prospective budget using the amount of current child support to determine if the case continues to be eligible for Families First. If the AU is ineligible for Families First benefits with the child support included, the Families First case must be closed after the adverse action period. If the AU continues to be eligible, the Budget Effective Date on the absent parent screens will prevent the income from being counted in the ongoing Families First and Food Stamp budgets.

Retention of Direct Support Payments:

If the caseworker learns that the AU is retaining support payments, he/she will notify Child Support (IV-D) using the Shared Based document, *IV-D Recovery Retained Support*. If IV-D discovers that the AU is retaining support payments, they will notify the caseworker.

In either instance, the child support will be used to determine if the AU continues to be eligible when the income is included in a prospective budget. If the AU is ineligible for Families First benefits with the child support included, the Families First case must be closed after the adverse action period. If the AU continues to be eligible, the Budget Effective Date on the absent parent screens will prevent the income from being counted in the ongoing Families First and Food Stamp budgets.

Recovery of the retained child support is the responsibility of IV-D and the individual will be required to sign a repayment agreement. If the individual refuses to cooperate with IV-D either in establishing a repayment agreement or in continuing to refuse to assign support, the caseworker will apply the appropriate sanction to the AU.

WORK REQUIREMENTS

POLICY STATEMENT

To receive Families First cash assistance, all adults and minor parents, who are not exempt and who are included in the assistance unit, must participate in a Personal Responsibility Plan (PRP) that includes 30 hours per week in work activities. Of the 30 hours per week, a minimum of 20 hours must be in core activities. The remaining 10 hours may be in core or non-core activities.

NOTE: Minor caretakers may meet the work requirement by either attending high school or its equivalent, or they may choose to attend 30 hours of work activity.

CORE ACTIVITIES

TANF regulations provide strict definitions for each countable work activity. Families First follow these TANF guidelines. A minimum of 20 hours per week must be spent in Core work activities. Only the following Core work activities will be countable PRP activities.

- **Unsubsidized Work** is defined as full or part-time employment in the public or private sector that is not subsidized by FF or any other public program. This may include self-employment or on-the-job training.

- **Job Search and Job Readiness Assistance** is defined as the act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training, and substance abuse treatment, mental health treatment or rehabilitation activities.
  This activity is time-limited to 4 consecutive weeks or 360 hours in the preceding 12-month period for "needy states," a definition which Tennessee currently meets. Following the 4 consecutive weeks, a 1 week break is required prior to resuming Job Search and Job Readiness. **(Bulletin 37, FA-08-28)**

  NOTE: If a client is participating in FSC activities, the total number of FSC activity hours can be countable toward Job Search/Job Readiness hours if the client chooses this option and has not exhausted the 4 consecutive week limitation or the 360 hours limitation. **(Bulletin 37, FA-08-28)**

- **Work Experience** is defined as work performed in return for cash assistance that provides an individual with the opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment.

- **Community Service** is defined as a structured program in which FF participants perform work for the direct benefit of the community under the auspices of public or non-profit organizations.

- **Vocational Education** is defined as an organized educational program that is directly related to the preparation of individuals for employment in current or emerging occupations. **(Bulletin 37, FA-08-28)** Time assigned to Vocational Education is limited to 12 months in a lifetime.

In addition, no more than 30% of the FF caseload can be enrolled in Vocational Education at a given time.

NOTE: Clients who are participating in a bachelor's degree or advanced degree program (as well as two-year degree programs and vocational certificate programs) or a post-secondary program that results in a vocation-specific diploma or certificate (such as nursing), may count this program as a core activity under vocational education, if the client has not exhausted the Voc Ed 12-month limit. **(Bulletin 37, FA-08-28)**

- **Subsidized Employment** is defined as employment in the public or private sector for which the employer receives a subsidy from FF or other public funds to offset some or all of the wages and costs of employing a recipient. The recipient is paid wages and receives the same benefits as a non-subsidized employee who performs similar work.

NON-CORE ACTIVITIES:
Only the following Non-Core activities are countable PRP activities. They are limited to a total of 10 hours per week.

- **Job Skills Training Directly Related to Employment** is defined as training which enables participants to obtain or perform a specific job or type of job. It may be job specific or general training and can include literacy or language instruction. **This includes Post-Secondary Education** defined as enrollment in an accredited post-secondary program if the individual has exhausted the Vocational Educational training limit of 12-months. Supervised homework/study time and one hour of unsupervised homework/study time for each hour of class time will be countable toward educational training hours. Supervised homework/study time must be verified and documented to be countable. The total countable homework/study time may not exceed the hours required or advised by the educational program.
(Bulletin 37, FA-08-28)

- **Adult Education** is defined as courses provided though a certified institution. It may include courses designed to provide knowledge and skills for a specific occupation or work setting, adult basic education or English as Second Language courses. This activity also applies to attendance at a secondary school or GED course for those who do not have a high school diploma or the equivalent.

RENEWAL HOUSE:

Residents of Renewal House will be considered to have met their 30-hour work requirement. These clients may receive support services through the work activity contractor.

RESIDENTIAL TREATMENT CENTERS:

Residents of residential/treatment centers required to participate in the facility's program will be considered to have met their 30-hour work requirement. These clients may be referred to a work activity contractor for support services only.
(Bulletin 35, FA-08-26)

VOCATIONAL REHABILITATION:

Participants in Vocational Rehabilitation who are deemed fully active by VR will be considered to have met their 30-hour work requirement.

Voc Rehab participants who are not otherwise work exempt and who are not following their VR plan may be sanctioned for failure to comply with work requirements.

MINOR PARENT CARETAKERS

For purposes of the work activity requirement, a minor parent caretaker is defined as an individual, under the age of twenty, who is the head of a Families First case.

As long as these caretakers are in high school, or an equivalent program, they will be considered to have met their 30-hour work requirement. These cases will be monitored by the client representative. When the minor parent caretaker reaches twenty years of age, he or she will have a 30-hour work activity requirement and must be referred to a work activity contractor, whether or not he or she has graduated from high school or completed an equivalent program. If the minor parent caretaker will continue in school after age 20, 10 hours of the 30 required activity hours may still be used for education. **(Bulletin 15, FA-08-11)**

Minor parent caretakers in high school, or an equivalent program, that need support services, including transportation, may be referred to a work activity contractor for those services only (not work activity services). This will not include transportation for the minor parent's child to day care unless that service is one the contractor already provides. The client rep will monitor these cases.

NOTE: It is important to remember that there is a difference between a minor parent caretaker and a dependent minor who is a member of his/her parent's Families First case. A minor parent caretaker may continue in high school (or an equivalent educational program) until he or she reaches 20 years of age. A dependent minor (whether a parent or not) is considered a dependent child in Families First until he or she reaches age 18 or age 19 (if he or she is expected to graduate by age 19). **(Bulletin 15, FA-08-11)**

EXCEPTIONS

An adult or minor parent caretaker is exempt from the work requirement when he/she is:

- A child only caretaker.
- The caretaker is 65 years old or older.

  NOTE: Caretakers who are 60 to 64 years old as of July 1, 2007 may be treated for the purpose of exempt status as though they were 65 or older. However, if the case is closed, they will lose this status upon reapplication and will have a work requirement, unless exempt for a reason other than this exception.
- Disabled.

- Caring for an infant up to 16 weeks of age.

  NOTE: For a two parent household, only one parent can be exempted to stay home with the infant until 16 weeks of age.

- Caring for an in-home disabled individual. **(Bulletin 37, FA-08-28)**

- Temporarily incapacitated.
  - When an individual makes a claim of incapacity, follow the same process used to determine incapacity for deprivation purposes (see the Deprivation chapter).
  - Pregnancy is not an automatic incapacity. However, pregnancy may cause a temporary incapacity due to medical problems (see the Good Cause section of this chapter).
  - Both applicants and recipients will be exempt from the work requirement while awaiting an incapacity decision.

Some individuals are mandatory AU members who are not included in the grant calculation. However, unless they meet other exemption criteria, they are not exempt from the work requirement because of their mandatory status. These individuals will most often have a mandatory AU status because they are the parent(s) of an AU child. These individuals are:

- Ineligible aliens who have a US work permit.

- Convicted drug felons (convicted after 8/22/1996).

- Fleeing felons.

- Probation/parole violators.

- Disqualified individuals.

NOTE: Because it is illegal for **illegal aliens** to work, they do not have a work requirement.

NOTE: Individuals who home school their children **are not exempt** from the work requirement nor can this home schooling be an activity on their Personal Responsibility Plan.

ADA Accommodations:

Some individuals may need ADA accommodations in order to participate in the Families First program and be able to fulfill their work requirements. Individuals who are being assessed for an ADA accommodation will be exempt during the assessment period. Please refer to the Rights and Responsibilities Chapter, section "ADA requirements and Their Application to Families First Accommodations," for further discussion on this subject.

In Home Disabled Relative:

The Medical Evaluation Unit (MEU) will determine whether an "in home disabled relative" meets the disability/incapacity criteria that give the assistance unit caretaker an exemption from the Families First work requirement or a time limit extension.

Sending the Medical Packet to the MEU: Address and complete all technical eligibility issues in the local DHS office before sending the medical/mental packet to the MEU for a decision. **It is NOT necessary to document the Medical/Social information on the eligibility and case management system on this type of case.** When technical and financial eligibility is established and a decision is required, the DHS caseworker will take the following steps:

- Mail the "Physician's Statement of Critical Need in the Home" form to the treating physician. Give the doctor/provider two weeks to complete and return the form. **NOTE:** If it is not returned within two weeks, request that the caretaker have the form completed by the disabled individual's treating physician within two weeks. It is ultimately the caretaker's responsibility to provide the appropriate documentation to the DHS caseworker.

- Complete the **MEU Information Checklist** and mark the appropriate category.

- Mail the **MEU Information Checklist** and Physician's Statement of Critical Need in the Home to:

  Medical Evaluation Unit
  TDHS
  400 Deaderick Street
  Nashville, TN 37243

The MEU will evaluate the "Physician's Statement of Critical Need in the Home" or information provided by the client and make a decision based on the "medical/mental" necessity for the provision of in-home care. The MEU decision will be mailed to the DHS caseworker for appropriate action.

The caretaker will be exempted from the work requirement until the MEU review is completed and a decision is made. If the MEU review determines that the in-home disabled relative requires in-home care, as determined by a physician or other health care professional, the caretaker will be exempted from the work requirement until the care is no longer necessary.

NOTE: Some of the in-home care may be provided by home health care providers or other individuals to give the caretaker assistance/rest, but these services do not negate the exemption. **(Bulletin 30, FA-08-22)**

Volunteers:

Exempt individuals may volunteer to participate in Families First activities, except for child only caretakers, illegal aliens and SSI recipients. They will be referred to a client representative and will be eligible for support services. These individuals are eligible to receive support services even if they participate for less than 30 hours. **(Bulletin 28, FA-08-20)**

NOTE: Remember that these individuals are not required to participate and cannot be sanctioned.

Work Requirement Compliance/Non-Compliance:

Clients who have an unexcused absence from a work activity will be considered non-compliant. There is no minimum/maximum number of absences required prior to imposing a sanction, nor a certain number of absences within a time frame to consider. One unexcused absence = sanction.

- The contractor will determine whether an absence is excused or unexcused.
- Excused absences are never sanctionable.
- Clients will be sanctioned for all **unexcused** absences.

PROCEDURES

Once the caseworker determines a client to have a work requirement he/she is assigned to a client representative. The client representative is responsible for providing a Families First Orientation and facilitates the signing of the PRP. The client representative approves the case once the PRP is signed. He/she then refers the client to a Families First work activity contractor for placement in work activities.

It is the responsibility of the Families First work activity contractor to complete the client's Individualized Career Plan, place the client in activities and monitor the client's participation in those activities. It is the contractors' responsibility to monitor placement, attendance, absences, progress, and completion. It is the contractor's responsibility to provide all support services with the exception of child care. The contractor may also refer clients to FSC as needed.

NOTE: Minor parents in high school will be referred to a client rep for case management. They will not be referred to a contractor unless they choose (in the case of a minor parent caretaker) to do a 30 hour work activity in lieu of high school or an equivalent program or unless they need support services. **(Bulletin 15, FA-08-11)**

VERIFICATION

Verifications are the responsibility of the participant except when the information is already known to DHS or when access to the information is more easily obtained by the client representative.

Verify:

- Employment for any members working, including the number of hours and wages.
- Age for all individuals 65 or over.
- Age for minor parents.
- Any exemption or good cause claimed by the participant resulting from a conciliation process.
- Birth of a child within the last 16 weeks.
- Parent or caretaker relative needed in the home to care for a related child or adult in the home. (A statement from the individual's doctor confirming that the participant is needed in the home to provide care for the relative is sufficient.) **(Bulletin 37, FA-08-28)**

- An incapacitating condition exists for any member claiming such an exemption. (Follow directions for determining incapacity found in the Deprivation chapter in the Families First Handbook.)

- Disability claim by providing one of the following:

  - Receipt of SSI under Title XVI of the Social Security Act or disability or blindness benefits under Titles I, II, X, XIV or XVI of the Social Security Act.
  - Receipt of interim or presumptive assistance benefits pending the receipt of Supplemental Security Income (SSI).
  - Receipt of federal or state administered supplemental benefits under sections 212 (a) of Public Law 93-66.
  - Receipt of disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(I) of the Social Security Act.
  - Receipt of VA benefits for a service or non-service connected disability rated or paid as total disability, or is considered by VA standards to be in need of regular aid and attendance, or considered permanently housebound.

progress, and completion. It is the contractor's responsibility to provide all support services with the exception of child care. The contractor may also refer clients to FSC as needed.

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VERIFICATION

Verifications are the responsibility of the participant except when the information is already known to DHS or when access to the information is more easily obtained by the client representative.

Verify:

- Employment for any members working, including the number of hours and wages.

- Age for all individuals 65 or over.

- Age for minor parents.

- Any exemption or good cause claimed by the participant resulting from a conciliation process.

- Birth of a child within the last 16 weeks.

- Parent or caretaker relative needed to care full-time for a related child or adult in the home who does not attend school full-time. (A statement from the individual's doctor confirming that the participant is needed in the home to provide full-time care for the relative is sufficient.)

- An incapacitating condition exists for any member claiming such an exemption. (Follow directions for determining incapacity found in the Deprivation chapter in the Families First Handbook.)

- Disability claim by providing one of the following:

  - Receipt of SSI under Title XVI of the Social Security Act or disability or blindness benefits under Titles I, II, X, XIV or XVI of the Social Security Act.
  - Receipt of interim or presumptive assistance benefits pending the receipt of Supplemental Security Income (SSI).
  - Receipt of federal or state administered supplemental benefits under sections 212 (a) of Public Law 93-66.
  - Receipt of disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(I) of the Social Security Act.
  - Receipt of VA benefits for a service or non-service connected disability rated or paid as total disability, or is considered by VA standards to be in need of regular aid and attendance, or considered permanently housebound.
  - Receipt of VA benefits by a surviving spouse of a veteran because he/she is considered by VA standards to be in need of regular aid and attendance and is permanently housebound.
  - Receipt of VA benefits by a surviving spouse of a veteran and entitled to VA compensation due to the spouse's service connected death, or VA pension benefits for a non-service connected death and has a disability considered permanent under the Social Security Act. Entitled means the individual is receiving or has been approved for the benefits.
  - Receipt of an annuity payment under section 2(a)(1)(iv) of the Railroad Retirement Act of 1994 and is determined to be eligible to receive Medicare by the Railroad Retirement Board.
  - Receipt of Railroad Retirement disability annuity under section 2(a)(I)(v) of the Railroad Retirement Act of 1984 and is determined to be disabled based on the criteria used under title XIV of the Social Security Act (SSI).
  - Receipt of a disability-related medical assistance payment under title XIX (Medicaid).

DOCUMENTATION

Document the appropriate eligibility and case management system screens regarding:

- Work requirement exemption reasons for all exempt AU members.

  - Exempt individuals who volunteer to participate in work requirement activities.

- Good cause reasons for not complying with work/work preparation activities.

- Verifications used to prove exemption and good cause status.

- Orientation topics that were covered.

- All follow-up contacts.

- The brochures that were given.

PROCEDURES

- Obtain sufficient information during each interview process to determine the exemption/good cause status of AU members.

- Explain to the participant what the exemption/good cause criteria are and how they affect work activities.

- Evaluate the exemption/good cause reasons at each contact with the participant.

- Evaluate the work plan activities for progress, completion, or problems at each contact with the participant.

RESOURCES

POLICY STATEMENT

To be eligible for Families First benefits, the assistance unit's total countable resources must be less than $2000 at the time of application and reapplication (renewal). When determining the total countable resource amount, the caseworker will use the equity value of the resource. The equity value is determined by subtracting the amount of encumbrances from the fair market value of the resource.

- **Agent Orange Settlement payments** are **not countable** resources. Veterans who are eligible under the program receive disability payments each year they are disabled during the life of the program. Lump sum payments received by survivors of deceased veterans are also **not countable** resources.

- **Basic maintenance items** that are essential to daily living such as clothing, furniture, appliances, and other similar essential household goods and equipment of limited value are **not countable** resources.

- **Bonds** are **countable** resources.

- **Burial agreements** are **not countable** resources.

- **Burial plots, grave sites, crypts, mausoleums, urns, or other repositories** are **not counted** as resources.

- **Burial policies** are **not countable** resources. A burial policy is different from a burial agreement. It is usually purchased from a funeral home for a certain premium per week or month. These policies pay only for burial costs at the death of the person named on the policy and have no cash value.

- **Cash** on hand is a **countable** resource.

- **Checking accounts** in a bank, credit union or other financial institution **are countable** resources.

- One-time **Crisis Intervention Program** payments to assist with utility costs from the Crisis Intervention Program are **not countable** resources.

- **Disqualified Individual** - Resources of an individual who is disqualified because of an Intentional Program Violation are **countable** resources.

- Payment made through the **Domestic Volunteer Service Act of 1973**, as amended, for volunteer services are **not countable** resources. These programs include Foster Grandparents, Service Corps of Retired Executive (SCORE), Active Corps of Executives (ACE), and other programs under Title II and Title II of the Volunteer Service Act of 1973 (P.L. 93-13, as amended), and VISTA payments.

- **Earmarked Resources -** Any governmental payments that are specifically designated for the restoration of a home damaged in a disaster and rental assistance during the restoration period, are **not countable** resources. Such funds include those made by the Department of Housing and Urban Development through the Individual and Family Grant Program, or disaster loans or grants made by the Small Business Administration.

- Payments made under the National Flood Insurance Program (NFIP) for flood mitigation activities shall not be counted as income or resources of the property owner.

- **Earned Income Tax Credits (EITC)** are **not a countable** resource.

- **Earned Income Tax Credit** lump sum tax refunds are not counted as a resource in the month of receipt and the month following receipt. They will be countable in the third month following receipt.

- **Energy assistance payments** or allowances made by a federal, state, or local agency or by a charitable organization are **not countable** resources. This exclusion includes payments made through the Department of Health and Human Services, Low Income Energy Assistance Program, and the Community Services Administration's Energy Crisis Assistance and Crisis Intervention programs.

- An **entrepreneurial account** placed with a micro-lending intermediary program with a balance of $5000 or less is **not counted** as a resource. See the Low-Income Entrepreneurial Escrow Accounts chapter for details on these accounts.

- **Equipment** used in a self-employment enterprise used to produce income is **not a countable** resource.

- Benefits from **food programs**, including WIC, the value of food stamps and the value of school lunches or other school food programs, are **not countable** resources.

- The **home and lot** owned or being purchased and occupied by the Families First assistance unit and the property surrounding the home which is not separated from the home by intervening property owned by others is **not counted** as a resource. Public rights of way, such as roads and/or other public easements, which run through the property surrounding the home, do not affect its classification of homestead property. Temporary absences from the home do not affect the classification and/or exemption of the home if the AU has not acquired another home and intends to return to the exempt home at a specified time.

- The value of an **Individual Development Account** (IDA) of **$5000 or less is not counted** as a resource. See the Individual Development Account Demonstration chapter for additional details regarding these accounts.

- Resources of an **ineligible alien** are **countable only** when the ineligible alien is the parent of the AU child(ren).

- **Individual Retirement Accounts** (IRAs), **Keogh plans**, and **401K plans** of $20,000 or less are not counted as a resource. If the amount of money in an IRA, Keogh plan, or 401K plan

exceeds $20,000, only the amount in excess of the $20,000, minus any penalty for early withdrawal, is a **countable** resource

- **Life insurance policy cash values** are **not countable** resources.

- **Insurance settlements** for casualty/disaster loss to the home are **not countable** as resources for three months following receipt of the payment if the AU intends to reinvest it in a homestead.

- Payments to **Native American Indians** are **not countable** resources. These payments include:

  - **Alaska Native Claims Payments and Sac and Fox Indian Claim Payments** received under the Alaska Native Claims Settlements Act. P.L. 920203, Section 21 (a) and the Sac and Fox Indian Claims Agreement P.L. 94-189;
  - **Payment for Certain Indian Tribes** that are derived from certain submarginal lands of the United States which are held in trust for certain Indian tribes; and
  - **Payments from Disposition of Funds of Ottawa Indians** under P.L. 94-540.

- **Non-liquid assets used as collateral** for a business loan are **not countable** resources if the lien agreement specifically prohibits the assistance unit from selling it.

- **Non-Recurring lump sum payments and retroactive payments** are **countable** resources. Examples of retroactive payments are: RSDI, VA, Unemployment benefits, and Workman's Compensation. Examples of non-recurring lump sum payments are: windfalls, cash gifts, prizes, awards, income tax refunds, tax rebates and credits, refunds of security deposits on rental property or utilities.

- **Pension Funds** <u>that are not accessible</u> to the AU except at retirement or at termination of employment are **not countable** resources. <u>If the employment is terminated and the pension becomes accessible to the AU,</u> it is then a **countable** resource.

Property:

- **Buildings, land and recreational properties**, such as boats, vacation homes and mobile homes that are not homestead property are **countable** resources. (These are called non-exempt properties.) **Income producing real property** is a **countable** resource.

- **Non-Exempt property,** unless there is a good faith effort to sell, the property is a **countable** resource. Real property, that is not homestead property, that the AU is making a **"good faith effort"** to sell, is **not a countable** resource if the AU signs an agreement to repay the Families First benefits received during the period of exemption. This exemption will not exceed nine months. If the net proceeds of the sale plus other resources in the AU at the beginning of the exclusion period exceed the resource limit, there is an overpayment of Families First benefits. To qualify for this exemption the AU must :

  - List the property for sale with a real estate agency.
  - List the property for sale at auction with an auction company.

- Advertise the property for sale on a continuous basis in the newspaper which serves the area.

If the real property is sold during the nine-month exemption period, see the Procedures section for instructions about repaying the Families First benefits. Any proceeds remaining after repayment of the Families First benefits are **countable** resources.
If the real property remains unsold at the end of the nine-month exclusion period, reevaluate the state of the property. The county staff must decide whether or not to declare the property as an inaccessible resource on the basis that it could not be sold. Each situation must be given careful consideration and handled on a case-by-case basis. This decision should be based on whether a good faith effort was made to sell the property and if a reasonable offer to buy the property was declined. If the decision is made to count the property as a resource, the benefits that the AU received during the entire period would be an overpayment subject to the usual overpayment collection procedures. If the decision is made that the resource is inaccessible, **do not count** the property as a resource.

- Payments made under P.L. 104-204 **to children of Vietnam veterans who were born with spina bifida** are **not** counted as a resource.

- **Proceeds from the sale of exempt real and personal property** if there is no intent to reinvest the proceeds in other exempt real or personal property are **countable** resources. If there is intent to reinvest the proceeds in other exempt real or personal property, the proceeds will **not be counted** for three months after the sale. Any exemption extensions for longer than three months require approval from the Families First Policy unit in the State Office. Extensions will depend on the factors beyond the AU's control to reinvest the proceeds, such as illness, delays in construction, etc.

- Real property that the AU demonstrates that it cannot sell because it has only a **life estate, use rights, lifetime occupancy or dower rights** is **not a countable** resource.

- **Relocation Assistance Payments** received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are **not countable** resources. These payments include:

  - Payments to persons displaced as a result of the acquisition of real property.
  - Relocation payments to a displaced homeowner toward the purchase of a replacement dwelling. Such payments are made only to a displaced owner who purchases and occupies a dwelling within one year following displacement.
  - Replacement housing payments to displaced persons who are eligible for a homeowner's payment.

- **Savings accounts** in a bank, credit union or other financial institution are **countable** resources.

- **Savings certificates** are **countable** resources.

- **Stocks** are **countable** resources.

- **Student grants and loans** are **not countable** resources for Families First AU members, stepparents or parents of a minor in the home.

- **Trust funds -** If a Families First applicant/recipient claims that a trust fund is inaccessible, the individual will have 60 days from the date of application/ reapplication to have the resource made available. If the caretaker is willing to try to have the trust made available, he/she may be included in the assistance unit. If the caretaker does not follow through within 60 days, he/she will be removed from the assistance unit. If the caretaker is attempting to have the trust made currently available, assistance will continue (if otherwise eligible) pending the court decision.

  - The court's decision as to accessibility of the trust fund, as written in either a new or amended order, is binding.
  - The caretaker will not be required to have trust funds made currently available in the following situations and these trusts are **not countable** resources:

    - If a trust is established by a will. The terms of the trust will be followed as they stand.
    - If a trust is producing regular income, which is available to the beneficiary, the body of the trust will not be considered a currently available resource, but the income will be countable income.
    - If a trust has been set up for a minor (usually until age 18) and the amount of the trust account is $5000 or less, the caretaker will not be required to attempt to make the trust accessible. In most instances, the legal fees involved in such an attempt would erode the value of the trust to the extent that it would not be cost effective to bring it to a state of availability.

Vehicles:

- The equity value of one vehicle that is under $4600 is **not a countable** resource.

- The equity value in excess of the $4600 plus the entire equity value of any other vehicle, licensed or unlicensed, is a **countable** resource.

- (See PROCEDURE for the procedures to use to determine the countable resource amount of a vehicle.)

Victims Compensation Awards paid on behalf of minors are **not countable** resources if:

- The minor's parent, caretaker relative or guardian entered into an agreement with the State Claims Commission as to the uses to be made of the funds and signed such an agreement.

- The funds are deposited in accordance with the agreement.

- The funds remain on deposit or are used only according to the terms of the agreement.

- Any funds withdrawn and used for goods/services not specified in the agreement will be treated as income in the month received.

- **Victims Compensation Awards paid to adults** (age 18 or older) in their own behalf are **countable** resources.

Ownership of Resources:

The owner(s) of a resource is the person in whose name the resource is listed/registered/titled. If the resource is not a type of resource that would be listed/ registered/titled, it belongs to the person who claims ownership. Real and/or personal property belonging to the spouse of a relative other than a parent of an AU child are not countable to the AU. Resources belonging exclusively to an SSI recipient are totally disregarded in determining the eligibility of his/her spouse and the AU in which the spouse is included.

Resources of Individuals:

Resources of the following individuals are considered available to the AU only when the individual is included in the AU:

- Stepparents.
- The parents of a minor parent.
- A minor child.
- Relatives other than a parent.

Countable resources of an **SSI recipient** are **not counted** in the AU's resource total.

Countable resources of an **ineligible alien** will be **counted** in the AU's resource total only when the ineligible alien is the parent of the AU child(ren).

Countable resources of a **disqualified individual** will be **counted** in the AU's resource total only if the individual is a mandatory AU member.

Treatment of Commingled Liquid Resources:

Any liquid resource that is not countable (excluded resource) will retain this status as long as the resource is kept in a separate account and not commingled in an account with countable liquid resources. A resource that has been excluded because it is prorated income and has been commingled in an account with countable resources will not be counted as a resource for the period of time over which it has been prorated. The resource cannot be counted as income and a resource during the same period of time. All other excluded liquid resources that are commingled with countable resources will retain their exemption for six months from the date that the resources are commingled. After six months, the total amount of the commingled account will be counted as a resource.

Jointly Owned Resources:

If the Families First AU reports a jointly owned resource (real or personal property that has more than one owner listed), the individual's pro rata share of any countable resource is applied to the

AU's resource limit. If the individual can demonstrate that it has access to less than a pro rata share, only the portion to which the individual has access will be counted toward the AU's resource level.

If a jointly owned resource cannot be practically subdivided, and access to the AU's share of the resource is dependent on the agreement of the joint owner, and the joint owner who is not an AU member refuses to comply so that the AU member can obtain his/her share of the resource, then the resource is considered inaccessible to the AU.

The fact that an AU member's name appears on a jointly named asset with that of a non-AU member does not conclusively mean that the resource is "jointly owned." The AU member must be given the opportunity to prove that he/she does not, in fact, have any ownership rights to the resource. The key to determining ownership is in the written language or oral understanding surrounding the creation of the joint bank account or other jointly named asset. Consider the source of the funds or asset and for whom the use and benefit of the funds/asset are intended and used. This may occur, for example, where an AU member's name is listed on a joint checking account in which all of the funds belong to an elderly or disabled relative so that the AU member can assist the relative with his/her banking transactions, and the AU member does not use any of the funds for his/her own personal use. The burden of proof that he/she has no ownership in the funds is on the AU member.

Sale of Real Property During the Nine-Month Exemption Period Real property, that is not homestead property, that the AU is making a **"good faith effort"** to sell, is not a countable resource if the AU signs an agreement to repay the Families First benefits received during the period of exemption. If the real property is sold during the nine-month exemption period and the sale is reported in a timely manner, a lump sum payment must be used from the sale proceeds to repay the Families First benefits. The caseworker must prepare and send a memo outlining the circumstances of the overpayment to the

Director of Fiscal Services
Citizen's Plaza Building, 5th Floor
400 Deaderick Street
Nashville, Tennessee 37243

The caseworker must remind the AU to submit a lump sum payment to repay the benefits according to the terms of the signed Notice of Excess Property and Repayment Agreement and to include his/her Families First case number on the check or money order before sending the payment directly to Fiscal Services at the above address.

If the real property is sold during the period of exclusion and the sale is not reported in a timely manner, treat the benefits that the AU received during the entire period as an overpayment subject to the usual overpayment collection procedures.

Determining Equity Value of a Vehicle:

To determine the value of a vehicle to be counted as a resource, first establish fair market value of the vehicle by determining the "Average Loan value" listed on the Kelly Blue Book website. Do not increase the basic value of the vehicle because of low mileage, optional equipment or special equipment.

Deduct any encumbrances on the vehicle from the fair market value to determine equity value. If the AU disagrees with the adjusted value, the caretaker may provide verification of the actual value of the vehicle from a reliable source such as a reputable auto dealer, a tax assessment, newspaper advertisements listing the sale price of similar vehicles, etc.

Use the AU's best estimate of the vehicle's value for vehicles no longer listed on the Kelly Blue Book website. If the estimate is questionable or if eligibility is affected, the caseworker must ask for verification from a reliable source (see above paragraph).

VERIFICATION

Resources must be verified at application and renewal, if questionable. Verification is primarily the responsibility of the caretaker except when the information is already known to the Department or when it is more reasonable for the caseworker to obtain the needed information.

DOCUMENTATION

All resources will be recorded on the appropriate eligibility and case management system screens as well as verifications used. Any pertinent information about the AU's resources will be documented in running record comments. In addition, if verification is required because of questionable information, the caseworker must document why it is considered questionable and what documents were used to resolve the questions.

PROCEDURES

Resources are considered available to the AU in the month of receipt. If an AU holds a resource that exceeds the Families First resource limit beyond the month of receipt of the resource and does not report the resource in a timely manner, an overpayment referral will be sent to COTS for a claim preparation.

INDIVIDUAL DEVELOPMENT ACCOUNT

POLICY STATEMENT

An Individual Development Account (IDA) is a special restricted savings account that a Families First participant can set up to assist in purchasing four different assets. IDAs can be set up with the assistance of the Tennessee Network for Community Economic Development (TNCED), an IDA non-profit sponsor, and a local bank. TNCED is the statewide, non-profit organization that operates the accounts for the IDA Project.

An IDA is different from a regular savings account because funds deposited by a participant are matched by a separate entity and there are restrictions on the use of these funds. An IDA will provide an opportunity for a participant to build assets to further support the transition to self-sufficiency.

The funds in an IDA (savings + match + interest), up to $5,000, will not be considered as a resource for Families First participants when computing the resource limit for initial or continued eligibility in the Families First, Medicaid, and Food Stamp programs, as long as the participant complies with IDA eligibility rules below. The amount of an IDA that is over $5,000 is counted toward the $2,000 resource limit.

The IDA can be used only for one or more of the following qualified purposes, as determined and verified by TNCED or the sponsoring PIC:

- Post-secondary education for the participant or the participant's children for career development: Payments for tuition, fees, books, supplies and equipment that are required for attendance and instruction courses at a post-secondary educational institution are permissible.

- Small business development: Amounts paid directly from an IDA to a financial account for the operation of the individual's business are restricted for use solely on qualified business expenses. These expenses are those specified in an approved business plan including: capital, plant, equipment, working capital and inventory expenses.

- Home ownership: Funds can be spent on a principal residence for a qualified first-time homebuyer. This means a taxpayer (and, if married, the taxpayer's spouse) who has no ownership interest in a principal residence during the three-year period ending on the date of acquisition of the principal residence. The acquisition costs of this residence cannot exceed 100% of the average area purchase price applicable to such residence. Qualified acquisition costs are the costs of acquiring, constructing or reconstructing a residence. This includes any usual or reasonable settlement, financing or other closing costs.

- Transportation Needs: Permissible purchases for transportation needs are the purchase of a vehicle, necessary car repairs and the purchase of alternative transportation vehicles (e.g. bicycle) to be used for employment or education purposes. If the Saver purchases a vehicle, the value of the new vehicle will then be looked at according to Families First resource policy.

No funds from IDA can be withdrawn for purpose other than those listed above, without penalty. The DHS penalty is that any withdrawal of funds by an IDA group member for unqualified purposes will cause the withdrawn funds to be considered a resource in determining eligibility for Families First. The resource consideration will be for the month of withdrawal and any subsequent months during which the funds may be available to the individual. If the individual is no longer a member of the IDA group, then all funds in the savings account are counted as a resource. The Saver will have the option to retain access to the match dollars (if they are used for qualified purposes) for up to two years. If the Saver takes this option, these match dollars will also be counted as a resource.

Qualified withdrawals will not affect an individual's resources or eligibility unless the withdrawal is for the purchase of a vehicle. The value of a vehicle purchased with IDA funds is considered when determining continued eligibility according to Families First and Food Stamp vehicle resource policy.

If the purchase is deemed unqualified by TNCED or the sponsoring PIC, resulting in the denial of the withdrawal request, the IDA participant may appeal in writing to the sponsoring agency's staff member and TNCED's executive director or the PIC director (whichever is applicable). The staff member and the director will review the appeal to determine if the purchase falls under any of the qualified purposes that are described above. If the purchase is still deemed unqualified, the individual may file an appeal with the Department of Human Services by following usual appeal procedures. The IDA contact is responsible for completing an appeal summary and forwarding the Appeal for Fair Hearing to Hearings and Appeals in the usual manner. Appeals regarding eligibility or benefit level will follow usual appeal procedures.

When a family stops receiving Families First cash grants, funds in the IDA account (savings + match + interest), and up to $5,000 are **not counted** as a resource when determining eligibility for the Medicaid and Food Stamp programs.

Eligibility to participate in the IDA Project:

- The individual must be a member of an eligible Families First assistance unit.

- The participant must notify the county Department of Human Services office, in advance, that he/she is going to start an IDA. This account must be one with a cosignatory relationship between the Saver and the Tennessee Network for Community Economic development (TNCED). Applicants must notify the caseworker about any individual in the assistance unit who has an IDA at the time of application in order for it to be considered a timely notification. For recipients, if the notification of the county office is prior to the recipient attending the first IDA group meeting, it is considered a timely notification. If the Department is not notified prior to the establishment of an IDA or at the time of application, the total funds in an IDA are counted as a resource up to the day that the Department is notified. Starting on the day that the Department is notified, the funds in the IDA will be disregarded.

- A participant does not have to be employed to open an IDA. However, deposits into IDAs must be from earned income.

- The participant must join an IDA group which meets twice a month at an approved non-profit sponsor. An approved non-profit sponsor is one that has agreed to and operates the IDA program in compliance with DHS policies and procedures. At these meetings, the group will receive training, support and technical assistance in maintaining and using this account. Attendance policy is determined by the non-profit sponsor and the IDA group. When the non-profit sponsor contacts the caseworker or IDA contact regarding an IDA Saver who is not in compliance with the attendance policy, the participant is not eligible to be in the IDA group, and funds in the IDA are counted as a resource.

- The individual (an IDA Saver) must commit to depositing funds to the IDA during these twice monthly meetings (the actual deposits will be completed the next business day by the individual). Deposits to the account must be from earned income. The amount of the twice monthly contributions to the IDA must be decided on beforehand at an amount that is manageable for the participant. If that amount becomes too burdensome, the participant and the non-profit sponsor can determine another amount that is more appropriate for his/her budget. For times when a participant is unemployed, the contribution amount can be set at zero, but the participant must notify the non-profit sponsor of this change.

Eligibility to Receive Matching Contributions:

The money that the participant deposits into the savings account is eligible for a match from a local bank, church, or other donors that contribute through TNCED or through the sponsoring PIC. The matching fund amount, plus the interest earned on that amount is documented for each IDA participant by TNCED or the sponsoring PIC, on a quarterly basis. An IDA Saver will not have access to the matching funds unless a withdrawal is authorized for a qualified purpose. Even for a withdrawal for a qualified purpose, the matching funds go directly to the vendor. The matching institutions and rates may vary by county and by the non-profit sponsor. However, the match rates are, at a minimum, 1:1 and, at a maximum, 9:1.

The matching funds are available for those account holders who:

- Attend the twice monthly meetings.

- Deposit the agreed upon amount (as decided by the participant and the non-profit sponsor) into their account twice a month. The deposit must be at least the minimum of the amount agreed upon, but may be a greater amount. If the deposit is a greater amount, the funds will not be matched unless a Deposit Change form has been signed by the designated non-profit sponsor staff member or the sponsoring PIC.

- Are currently employed. Once an IDA holder secures employment, deposits to the account begin to be matched immediately. For the period of time that a participant is unemployed, deposits will not be matched.

- The amount of match funds that a participant has in their IDA will be posted quarterly by TNCED or the sponsoring PIC. At the time of a qualified purchase the match funds are paid directly to the vendor, not the participant.

- Funds that are withdrawn for unqualified purposes are not eligible for a match.

EXCEPTIONS

- If a participant chooses to leave the IDA group, he/she will sign the IDA Departure Form (available from the non-profit sponsor or the sponsoring PIC) indicating plans to use or not use their IDA match for a qualified purpose within two years from the used, the matching funds will be considered a resource (savings + match + interest)

- If the individual does not plan to use the IDA match, the savings account is then considered a resource like any other savings account (savings + interest).

VERIFICATION

At each eligibility renewal, the participant must provide the quarterly statements from the bank and TNCED or the sponsoring PIC, that detail the total amount (savings + match + interest) in the IDA. Verification of attendance will come from the non-profit sponsor. A participant who has left the IDA group must present the IDA Departure Form to the caseworker to determine whether or not the participant has retained the ability to use the matching funds.

In the event of a withdrawal, the participant must provide a receipt and/or other form of verification from TNCED or the sponsoring PIC to the caseworker to establish that the withdrawal was used for one of the IDA qualified purposes. In addition, the State Office will receive a quarterly statement from TNCED for the IDA programs regarding the IDA activity for Families First Savers. This information will be shared with each of the county offices.

DOCUMENTATION

Information provided from the participant and the non-profit sponsor or sponsoring PIC regarding IDA start-up, withdrawals, balance amount, qualified purchases, etc. must be documented in the eligibility and case management system. It should also be noted which non-profit sponsor's IDA program the individual has decided to join.

The county IDA contact maintains a centralized IDA Program Log. The centralized IDA Program Log should be updated with each change in IDA status: referral, opening account, account balance, withdrawals, and departure from the IDA program. Each caseworker will fill out an IDA Program Log sheet when a change is reported regarding an individual's IDA. IDA Program Log sheets are available on Shared Base Documents as FA.FF.IDA.PROGRAM.LOG.

PROCEDURES

- The caseworker will explain what an IDA is; how one can participate in an IDA group; and how it affects his/her resources.

- The caseworker will be expected to educate the recipient on the incentives and benefits of building savings. The caseworker will have a listing of all the non-profit organizations that offer an IDA program and descriptions of each program available so that the participant can select the one best suited to his/her needs. Some communities may have only one non-profit that offers IDAs. Some IDA programs will be geared towards a specific service population such as a neighborhood, age or gender grouping. Other IDA programs will focus on a specific IDA use, like small business development. In the event that all the programs

available in a county have such specific population requirements that the participant is excluded from every program, the caseworker will inform the Department of Human Services county IDA contact of the situation. In turn, the Department of Human Services will notify TNCED and the DHS State Office of the circumstances of the person who is not able to open an IDA in the pilot program for service population reasons.

- The Referral Form for the IDA program is available to the participant at the Department of Human Services office. The Referral Form can be found on Shared Base Documents as FA.FF.IDA.REFERRAL. If a Families First participant is interested in opening an IDA, the IDA Referral Form should be completed (in triplicate) at the time of the visit. The Saver gives one copy to the non-profit sponsor and keeps another copy. The caseworker sends one copy of the form to TNCED at: ATTN: IDA, TNCED, P.O. Box 23353, Nashville, TN 37202-3353., (615) 395-4341. The caseworker logs in the referral on an IDA Program Log sheet. This referral information is then given to the IDA Contact in the county office to include in the centralized county IDA Program Log.

- The IDA contact will receive a Department of Human Services IDA Saver Notification Form, signaling that a participant is establishing an IDA. The form should be logged into the IDA Program Log, and the information shared with the individual's caseworker. The caseworker should then send the IDA Saver an IDA Information Letter that explains the DHS IDA Policy. This letter is available on Shared Base Documents as FA.FF.IDA.INFO.LETTER.

- The centralized county IDA Program Log should also be updated with information about account openings, account balance, withdrawals, and departures from the program. The caseworker fills in the new information on an IDA Program Log sheet and gives this information to the IDA Contact.

- In the event of a withdrawal, the participant must provide a receipt and/or other form of verification from TNCED or the sponsoring PIC to the caseworker to establish that the withdrawal was used for one of the IDA qualified purposes. If the withdrawal was for an unqualified purpose, the Saver should send a Department of Human Services-IDA Saver Unqualified Withdrawal Notification Form to the county IDA Contact.

- Questions about a specific IDA should be directed to the designated non-profit sponsor staff. Contact the county IDA contact person regarding any general IDA questions.

LOW INCOME ENTREPRENURIAL ACCOUNT

POLICY STATEMENT

All Families First participants who are self-employed (as defined below) qualify to have a Low-income Entrepreneur Escrow Account administered by a Community Based Organization (CBO) in which profits that are not reinvested in their business can be escrowed. These profits and the interest earned, up to $5,000, would not be counted towards a Families First participant's resource limit for the Families First, Food Stamp and Medicaid programs. However, when a participant is no longer in the Families First program, the funds in escrow are then applied to the family's resource limit when calculating continued eligibility for Medicaid and Food Stamps. The escrowed profits are placed in a micro-lending intermediary program.

In order to exempt the escrow profits up to $5,000, a participant must:

- Be a Families First participant and be in compliance with the work/work related requirements in his/her Families First PRP.
- Be self-employed (if an individual's income, divided by the minimum wage, equals at a minimum twenty hours per week, the individual is considered to be self- employed), and
- Be enrolled and participate in a micro-lending program that provides entrepreneurship training, technical assistance and peer support.

Only the amount in escrow over $5,000 is counted as resource for an eligible participant.

VERIFICATION

The participant must verify the amount in the escrow account, including interest.

DOCUMENTATION

The caseworker must document the eligibility and case management system in both the resource and running record sections:

- The Entrepreneurial Escrow Account number.
- Amount.
- The micro-lending program that the participant has joined.
- The method used to verify the amount.
- Any other pertinent information about the account.

PROCEDURES

The caseworkers will have a list of the organizations in their counties that offer approved micro-lending programs. However, some counties may not have an organization that the participant could join. The caseworker will supply the interested participant who is self-employed and meeting the work activity of their PRP with a referral form.
Determine if deferred individual is:

- Enrolled in appropriate micro-lending program.
- Participating in macro-lending program training.

The caseworker is responsible for notifying the CBO that an entrepreneur is approaching ineligibility for whatever reason (time limit, sanctions, income, etc.) so that the participant can plan their finances and their account accordingly.

INCOME

POLICY STATEMENT

All sources of income must be explored and the gross countable income from all sources must be verified prior to approval or continuation of benefits.

Gross income is tested against a maximum income level which is 185% of the consolidated need standard for the appropriate number of people. If the gross income is greater than this standard by any amount, the assistance unit is not eligible for Families First. If gross income is equal to or less than the maximum income level for the appropriate number of people, then net income is computed and this amount is used to determine eligibility and amount of payment. If there is a deficit of $1.00 or more between the need standard and net income, then eligibility on this basis exists. Payment level is determined by testing net income (after appropriate exclusions and disregards, if any) against the standard of need. If there is still a deficit, a payment may be made, not to exceed the standard payment amount for the AU size nor in a monthly amount less than $10.00.

Requirement to Apply for Other Benefits:

As a condition to eligibility for Families First, any person (with the exception as explained below) who is reasonably certain to be entitled to any other case benefit (not SSI) must apply for and accept such benefit for her/himself and/or any member of the assistance unit. Failure to apply for or to accept the benefit renders the AU ineligible if the grantee relative is required to be a member of the AU. Failure to apply for or to accept the benefit renders the grantee relative who is not required to be included in the AU ineligible to be included in the AU.

EXCEPTION: Applicants or current recipients of (actual or deemed) Families First benefits who were receiving a VA pension in December, 1978, or prior thereto must not be required to apply for and/or accept improved pension benefits, nor can they be sanctioned in any way for their failure to do so.

Earned Income:

Earned income is money derived from an individual's work efforts, such as wages, salaries, commissions, or as profits from a self-employment enterprise.

The following monies are considered earned income:

- Wages, salaries, commissions.
- Garnished or diverted wages are considered to be earned income.
- Profit from self-employment enterprises such as the following:
  - Farming.
  - Small business enterprises.
  - Roomers/boarders.

- Rental receipts—Rent receipts from property owned/being purchased by an individual/family when the owner/purchaser is actively engaged in the production of the income are earned income.
- Total gains of any capital goods or equipment related to the business, excluding the costs of doing business.

- Rental income is considered earned if the individual is actively engaged in producing the income. The cost of doing business is an allowable deduction regardless of whether the income is earned or unearned.

- Training and Rehabilitation allowances—count as earned income any wages paid for on-the-job training or public service employment, except JTPA earnings of child applicants/recipients. (See JTPA earnings for children clients later in this section.) Exclude all training allowances and incentive payments in Families First Work projects and JTPA projects.

- Severance Pay and Vacation, Sick, Longevity, Bonus Pay, Maternity Leave Pay, and Jury Duty Pay.

  - Severance pay is counted as earned income.
  - Vacation, sick, longevity, bonus pay, maternity leave pay, and jury duty pay are counted as earned income when mandatory deductions are made.

- JTPA payments to adults and minor caretakers are considered earned income if the payments are wages or compensation in lieu of wages.

- Allowances and Other Benefits under the National and Community Service Trust Act of 1993:

  This Act establishes the Corporation for National and Community Service, which administers national community service programs including AmeriCorps, which provides an individual with an education ward of $4,725 per year of completed national service. There are three programs encompassed in AmeriCorps.

  - AmeriCorps * USA for participants age 17 and over.
  - AmeriCorps* VISTA for participants age 18 and over.
  - AmeriCorps* NCCC for participants age 16 to 24.

    Payments provided to AmeriCorps participants are:

    - Living Allowance: Treat this stipend as earned income for Families First participants who were not receiving Families First at the time they joined AmeriCorps VISTA. Apply the earned income disregards EXCEPT in the case of VISTA volunteers. This stipend is disregarded for VISTA volunteers.
    - For a participant who receives Families First as a dependent child, disregard it in determining the amount of grant if the child is a full-time student or a part-time student working less than full-time.)
    - Child Care Allowances: These allowances paid to participants are disregarded if used to pay child care.

- The basic health insurance policy, child care services, auxiliary aid and services to disabled participants, and the national service education award are treated as in-kind benefits, which are disregarded in Tennessee.

In addition to these basic AmeriCorps programs, the Corporation for National and Community Service oversees the following programs:

- The Senior Corps for participants over age 55.
- The Youth Corps for participants age 14-17.
- Learn and Serve for participants in grades K-12.

Even though only AmeriCorps participants receive the education award, some of the other Corporation programs provide "stipend" benefits (living allowance, child care allowance, in-kind benefits) to participants.

There is a summer program lasting 8-12 weeks (known by various names, such as Summer of Service, Summer of Safety) in which participants in all six programs are placed in AmeriCorps programs. These participants are eligible for a $1000 education benefit upon completion of the service.

Reimbursements for normal living expenses such as rent, personal clothing, and food eaten at home, are a gain or benefit. The amount by which a reimbursement exceeds the actual incurred expense is counted as earned income. However, reimbursements are not considered to exceed actual expenses, and the expense amount need not be verified, unless the provider or the client indicates the reimbursement amount exceeds the expense. When a reimbursement covers multiple expenses, individual expenses do not have to be separately identified if none of the covered expenses are normal living expenses.

Unearned Income:

Unearned income is any income, which does not meet the definition of earned income. No earned income exclusions or work expense deductions are applied to unearned income.

The following monies are considered unearned income:

- Unemployment Compensation and Workers' Compensation.

- Vacation, sick, longevity, and bonus pay are all unearned income when mandatory deductions are not made.

- Rental income is considered unearned if the individual is not actively engaged in producing the income. If the individual carries no specific responsibilities in earning the income, as when rental properties are in the hands of rental agents and the check is forwarded to the individual, or when an individual rents farm land to others and receives a monthly payment, the income is unearned. The cost of doing business is an allowable deduction regardless of whether the income is earned or unearned.

- Interest payments in excess of $60 per quarter (less than $60 is disregarded), dividends, royalties, and all other such direct money payments, which can be construed to be a gain or

benefit, are considered unearned income. Convert such income to monthly amounts if received on a weekly, bi-weekly, or semi-monthly basis. Consider these payments as currently available income. If such payments are received quarterly, prorate them over three months; semi-monthly, prorate over six months; annually, prorate over 12 months.

- General assistance payments, pensions, or other countable needs based assistance payments (other than SSI) are unearned income.

- Payments for rehabilitation made under the Services to the Blind, Vocational Rehabilitation, or other such programs are unearned income. Deduct expenses from the gross rehabilitation payment. They may include:

  - Transportation costs to and from the training facility, doctor, clinic, etc., based on the current state mileage allowance.
  - Books, tools, equipment, etc., not furnished by the facility.
  - Supplies such as pens, pencils, etc., not furnished by the facility.
  - Required occupational clothing.
  - Noon meals if not furnished by the facility (not to exceed current VA allowance).
  - Laundry and cleaning expenses related to training.
  - Incidental expenses over and above "personal incidentals" such as coffee breaks, grooming aids, some recreation (not to exceed $30 per month) if the person is away from home.
  - Initial outlay items (such as footlockers, suitcases) not furnished by VR or Services for the Blind.
  - Costs for items not included in our need standard, but necessary to participate in the program can be excluded as assistance from other agencies.
  - Count any remaining rehabilitation payment, after expenses, as unearned income.

- Annuities, pensions, retirement, veterans or disability benefits, military or Job Corps allotments, and other such pensions and benefits.

- Contributions in the form of regular cash payments made to the AU that are over $30 per recipient per calendar quarter.

- Money withdrawn from the body of a trust or interest/dividends paid to a client. Such monies are treated as regular income or annualized income as appropriate, depending upon the frequency of receipt.

- Non-IV-E Foster Care board payments are considered unearned income for a minor mother in foster care. If the dependent child is on non-IV-E funds, that child's total board rate must also be counted as unearned income. (Individuals eligible for IV-E are not eligible for Families First.)

Payments/Benefits Excluded from All Families First Income Tests (GIS/CNS) and in Calculating Benefits:

- IV-E Foster Care and Adoption Assistance payments and Foster Care Board payments.

- A child for whom Foster care or Adoption Assistance payments are received is excluded from the AU. The child's income and the Foster Care/Adoption Assistance payments are also excluded from the family's income.

- If a minor parent's foster care payments include the foster care costs of the minor's child, the child is not eligible for Families First.

- If a minor parent is receiving foster care board or adoption assistance payments but his or her child is not, do not count the income(including the board/adoption assistance payment) and resources of the minor parent in determining his/her child(ren's) eligibility for Families First.

- Foster care board payments made to the foster parents for the care of a foster child are not income, but are service fees. (The amount paid to the foster parent in addition to the board payment is income).

- **EXCEPTION:** If the exclusion of the child for whom adoption assistance is paid would reduce the amount of cash assistance for the adoptive family, the child must be included in the AU and his income, including the adoption assistance payment, must be counted.

- Relocation Assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

- Funds distributed per capita to or held in trust for members of any Indian tribe under P.L. 920254, P.L. 93-134, or P.L. 04-540.

- Payments received under the Alaska Native Claims Settlement Act (P.L. 92-203, Section 21(a); payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalera Reservation (P.L. 95-443); payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indians Claims Settlement Act of 1980 (P.L. 96-420, Section 5); payments of relocation assistance to members of the Navajo and Hopi tribes (P.L. 93-531).

- Receipts distributed to members of certain Indian tribes referred to in Section 6, P.L. 94-114.

- Payments from the Nutrition Programs for the Elderly (Title VII).

- The value of supplemental food assistance received under the Child Nutrition Act of 1966 (WIC), as amended, and the special food service program for children under the National School Lunch Act, as amended.

- Payments for supporting services and reimbursements of out-of-pocket expenses made to individual volunteers serving as health aids, senior companions, R.S.V.P., Foster Grandparents and any other programs under Title II pursuant to Section 418 of P.L. 93-113.

- AmeriCorps VISTA payments for Families First participants who were receiving Families First at the time they joined AmeriCorps VISTA.

- Income of minor child recipients who are students.

This does not apply to minor caretakers.

Do **not count** the earned income of a minor **full-time student.** Do not count this income in computing the grant or test it against the GIS or CNS during this period.

NOTE: Families First requires that all school age children attend school. If a child is not attending school, see the School Attendance Chapter for details. Also check this section for verification/documentation details.

A student is defined as a minor child recipient attending primary/secondary school, college, university, or a course of vocational or technical training

A student retains student status during official school vacations and breaks if requirements prior to the vacation/break were met and if the student plans to return.

A child who is receiving elementary/secondary or equivalent vocational/technical instruction from a homebound teacher meets student requirements.

Participation in apprenticeships, correspondence courses, other courses of home study, and rehab programs other than academic or institutional vocational or technical training do not qualify a child as a student.

An elementary school is defined as a state approved educational institution comprised of grades K through eight.

A secondary school is defined as a state approved educational institution offering a curriculum for grades nine through twelve.

NOTE: A full time student in a secondary school is defined as one who is taking an adequate grade level academic load to meet the graduation requirements for the respective school system in which he is enrolled. Generally, this is defined as 25 clock hours/week or 4 Carnegie units per year; **half time** is defined as 12 clock hours/week or 2 Carnegie units per year.

An equivalent level of vocational or technical training means equivalent to elementary or secondary education. It is not post-secondary education such as that leading to an Associate of Arts (A.A.) degree.

NOTE: **Full- time attendance** in a trade, technical, or vocational school is considered to be 30 clock hours per week with shop practice or 25 hours a week without shop practice. **A part-time student** is defined as one who attends 15 clock hours per week with shop practice or 12 hours per week without shop practice.

- JTPA Payments for Adults and Minor Caretakers – Exclude as unearned income payments at all steps of the budget calculation if income is identified by JTPA as a supportive services payment and is paid for supportive services such as child care, medical and other services needed to enable the client to work; or if income is identified by JTPA as a “needs based payment” which is income that is paid to meet a basic need that the Families First grant does not cover.

- Guardianship payments come in two types:
  - Kinship care – enables children to be cared for by family members while in the custody of the state.
  - Subsidized Guardianship – focuses on enabling children, who cannot be adopted, and who do not live with relatives, to have a greater degree of permanency.
  - These payments should be treated like Foster Care assistance payments. They are seen as service fees, not income.

- Payments made under P.L. 104-204 to children of Vietnam veterans (male or female) who are born with spina bifida.

- VA payments made under P.L. 106-419, Section 401 of the Veterans Benefits and Health care Improvement Act of 2000 to children with certain birth defects born to female Vietnam veterans. The birth defects identified may not include birth defects resulting from the following:
  - A familial disorder.
  - A birth-related injury.
  - A fetal or neonatal infirmity with well-established causes.
  - Spina bifida. (Spina bifida is covered by previous legislature (P.L. 104-204). It provides benefits to children with this disability born to either male or female Vietnam veterans.)

- Payments made to individuals because of their status as victims of Nazi persecution are excluded.

- Educational grants, loans, scholarships, stipends and/or college work study.

- Payments made to or in behalf of a Families First AU member or a stepparent in the home or parent in the home of a minor Families First parent are excluded.

- Exclude Agent Orange Settlement payments.

- Earned Income Tax Credits are excluded.

- The costs of doing business such as wages, benefits paid to employees; inventories, supplies, utilities, etc are excluded from income.

- Clothing allowance for disabled veterans for additional clothing needs resulting from the use of prosthetic or orthopedic devices.

- Legally obligated payments otherwise payable to an assistance unit which are diverted by the provider to a third party, unless this arrangement is made at the request of an assistance unit member.

- Loans provided by an individual or commercial lending institution which represent an obligation and not a benefit such as chattel mortgages and personal notes, are not income.

- Monies received and used for the care and maintenance of a non-assistance unit member, who is not the responsible relative of an assistance unit member living in the same home, are

not income for the AU. If payments are for multiple beneficiaries that include both AU and non-AU members, prorate the payments evenly among the intended beneficiaries to determine individual shares. The individual shares of the assistance unit members (their responsible relatives) will be considered income to the assistance unit (relative).

- Income belonging to non-assistance unit household members is not counted unless the member is a responsible relative or stepparent of an assistance unit member.
- Reimbursements for out-of-pocket expenses by volunteers or employees in the performance of their duties are not counted as income.
- Retroactive Families First/AFDC or SSI payments.
- Payments that are made either directly to Families First recipients or to a third party for rent or utilities under "Section 8" of the U.S. Housing Act.
- Payments for utilities to or on behalf of Families First recipients through the Department of Health and Human Services' Low Income Energy Assistance Program or other federal, state, or local energy assistance plan. Such payments must be clearly identified as energy assistance by the legislative body authorizing the program and the agency making the payment.
- Support payments (child and related spousal support) received by an assistance unit, but transferred to the IV-D agency as assigned support.
- Casual and inconsequential income that is $30 or less per quarter per Families First AU member.
- The portion of the assistance unit's income that is withheld by the provider to repay a prior overpayment is not income.
- Any gain or benefit not in the form of money payable directly to an assistance unit such as non-monetary or in-kind benefits. Examples are goods and services; food stamps, surplus commodities; rent or mortgage payments paid to a landlord or mortgage holder by HUD or state or local housing authorities or under section 8 of the Housing Act, etc.
- Payments made under the National Flood Insurance Program (NFIP) for flood mitigation activities shall not be counted as income or resources of the property owner.

TREATMENT OF INCOME

POLICY STATEMENT

The amount of income available to meet maintenance needs is to be determined in establishing eligibility in accordance with the definitions of income provided in the Income chapter. Currently available income (as defined) is considered in the determination of eligibility and level of benefit in Families First.

Projecting Income:

In Families First, a prospective method of determining eligibility and payment is used.

At the time of case action a decision is made as to the amount of income to be considered available for a future period. The caseworker anticipates monthly income the AU will have in the coming months and uses this figure to calculate the amount of benefits for Families First.

Anticipating Income:

At the time of application/reapplication an AU may expect changes in circumstances to occur in the future; in particular, changes relating to the receipt of income. However, only currently available income will be used to project the amount of ongoing available income unless the amount and date of receipt of expected income is known with reasonable certainty or unless some change has occurred. If the exact amount/month of receipt of the income is not known, only that portion of it which can be reasonably anticipated shall be considered as income.

When any change in AU circumstances is expected, including a change in income, the AU will be required to report the change within 10 days of the change.

Income in Past 30 days:

Income received during the past thirty days will be used as an indicator of anticipated income. However, past income will not be used for any month in which a change in income has occurred or can be anticipated.

If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the caseworker and the AU may use a longer period of past time if it will provide an accurate indication of anticipated fluctuations in future income. Similarly, if the AU's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the time of year, rather than the last 30 days, as one indicator of income for the eligibility period. In no event will the caseworker automatically attribute to the AU the amounts of any past income. Past income will not be used as an indicator of anticipated income when changes in income have occurred or are anticipated to occur.

Cases of Steady Employment:

In cases where the wage earner is steadily employed, income from previous months is usually a good indicator of the amount of income that can be anticipated in the month of application and subsequent months. If information supplied by the AU or a collateral contact indicates that future income will differ substantially from the previous month's income, the caseworker will use such information to make a reasonable estimate.

Converting Income to Monthly Amounts:

Since need determination and level of benefit calculation are made on a monthly basis, income and expenses available to an AU must be stated in monthly amounts. The following methods will be used to convert income to monthly amounts for purposes of determining prospective eligibility on active cases and benefit amounts:

- **Hourly or Piece Work Wages:** Estimate the amount of income to be expected as the result of a week's work based on hours/days produced. Use the weekly earnings to determine the monthly income.

- **Weekly Income:** Multiply weekly income by 4.3 to determine monthly income.

- **Bi-Weekly Income:** Multiply amount received each two weeks by 2.15 to determine monthly income.

- **Semi-Monthly Income:** Add the two amounts received to determine monthly income.

- **Monthly Income:** When a wage earner is employed and paid on a regular monthly basis, accept his/her verified monthly/salary as monthly income.

- **Annual Income:** Divide annual income by 12 to determine monthly income.

Rounding Truncating Procedures:

Cents for all types of income will be truncated when used in the budget calculations.

Cents for all types of types of expenses will be included in the budget calculation and then dropped in the final budget step for Families First.

Hourly wages will not be rounded prior to converting gross weekly or gross monthly income.

Use cents when computing the gross income. The eligibility and case management system will complete the truncating procedure which drops the cents at the last step of the budget calculation.

Income at Application:

Income in application month: Base the eligibility and benefit level for the AU that is submitting an initial application on its circumstances for the entire calendar month in which the application is filed. Use the income received by the AU members during the application month (i.e., income already received by the day of application plus any that is anticipated, with reasonable certainty, to be received in that month) to determine initial eligibility and benefit

level. If the AU's income is averaged, use the averaged amount for each month of the certification period, including the application month.

Effects of Changes During the Application Processing Period: An AU may be eligible in the application month based on circumstances existing in that month, but ineligible in the subsequent month because of changes which occur. The AU is entitled to benefits for the application month even when the processing of the application results in benefits not being paid in subsequent months.

An AU may be ineligible in the application month based on circumstances in that month, but eligible in the subsequent month because of changes which occur. A new application is not required, however the initial application must be denied for the application month and approved for subsequent months.

Anticipated Changes and Benefit Amounts:

Adjustments in a Families First grant are made on the basis of reported (or discovered) changes. The grant amount for the month of application may differ from the grant amount in subsequent months. If a change in income is reported and the change is ongoing, the new amount is to be used to project future ongoing income and continuing eligibility.

Income at Reapplication:

Families First eligibility and amount of payment at the time of redetermination will be based on circumstances which prevail at that time. Currently available income will be used to determine ongoing eligibility if it is anticipated to be ongoing.

Individuals Whose Income Must be Considered:

All Assistance Unit members:

Consider the countable gross income, earned and unearned, of all assistance unit members and their responsible relatives in the home plus the deemed income of an in-home stepparent and parent of a minor parent, as available. Test the gross amount against the amount equal to 185% of the appropriate consolidated need standard (i.e., gross income standard). This procedure screens in families with amounts less than the standard and screens out those with greater amounts. If screened in, the countable net income for the assistance unit is tested against the appropriate need standard to determine eligibility and level of payment.

No income of parents and spouses (i.e., responsible relatives) is diverted to their ineligible dependent(s) living in the home except in the deeming budgets of stepparents and parents of a minor parent.

Spouses:

- Consider the income belonging to one or both members of a married couple as available to each other as long as they are living together.

- Consider the income of a minor's spouse living in the home with the minor as available in its entirety to the minor when the minor is included in an assistance unit.

- The income of a spouse who is an SSI recipient is disregarded in determining the other spouse's eligibility and the amount of assistance.

- If the couple presents themselves as married, they are to be considered married. If they later claim to not be married, the burden of proof of their unmarried status will be upon the couple.

  See the Married During the Receipt of Assistance chapter for counting spouse's income when the caretaker marries during the receipt of Families First.

  NOTE: If a Families First applicant or recipient has a spouse in the military and is not receiving sufficient or regular support, the client should write the appropriate finance centers (listed below) and request an allotment be sent directly to her/him or the IV-D agency. A letter may also be sent to the military person's commanding officer regarding the matter. In both instances, the letters must give the service person's name, rank, social security number, and complete military address. The local chapter of the American Red Cross may be of assistance to the client in writing, submitting, and following up on the request.

  U.S. Army Finance Accounting Center
  Inquiries Division
  Centralized Pay Operations
  Indianapolis, In 46249

  Marine Corps Finance Center
  Allotment Division
  Kansas City, Mo. 61497

  Navy Family Allowance Activity
  Anthony J. Clelbrezze Federal Bldg.
  Cleveland, Oh 44199

  U.S. Coast Guard
  Military Pay Center
  6501 Lafayette Avenue
  Riverdale, Md. 20840

  Air Force Accounting and Finance Center
  Attention: MPAB
  Denver, Co. 80279

Income of Children:

- Do <u>not count</u> the income of a technically ineligible child (i.e., ineligible due to age, deprivation, citizenship).

- Count the income of a child, who is a minor parent and is sanctioned for failure to cooperate with school attendance requirements or the income of a child sanctioned for enumeration.

- Do not count a child SSI recipient's income.

- Do not count the income designated or legally "earmarked" for a child applicant/recipient, but not actually received, in determining eligibility and amount of payment. Although the money will not be counted in the AU, the caretaker must apply to have the money made available to the child. If the caretaker does not do this, the caretaker cannot be included in the AU if the caretaker is a non-parent grantee relative.

Parents:

Parents are responsible for the support of their dependent children until the children become age 18 (or age 19 if applicable). Parents living in the home with their children must be included in the assistance unit and their total income counted as available in its entirety, unless the parent is an SSI recipient. Count the income of parents excluded from the assistance unit because of a disqualification or enumeration penalty as available to the assistance unit.

Parent(s) of a minor parent who applies for or receives assistance for his/her own children are not pulled into the minor parent's AU. However, if the minor parent's parent receives Families First for the minor's siblings, the minor must be included in his/her parent's AU.

Stepparents and Parents of Minor Parents:

Deem income as available to assistance unit members from persons listed below under the given circumstances:

- A stepparent living in the home with stepchildren for whom assistance is requested.

- A parent living in the home with a minor parent who has requested Families First in his/her own right for a child in his/her care.

Do not deem income from a stepparent or a parent who is an SSI recipient.

Determine the amount of income to consider available to the stepchildren /minor parents as follows:

- Determine gross monthly income.

- From earned income only, deduct the flat work expense amount of $250 for full-time or part-time employment.

- Deduct the appropriate Consolidated Need Standard for the stepparent or parent and his legal dependents (for IRS tax purposes) living in the home who are not included in the assistance unit. (If the stepparent or parent's income is not taxable, use those individuals he/she could claim under IRS rules.) **NOTE**: The natural/legal parent of the dependent child must be included in the assistance unit; his/her needs may not then be included again in the deeming budget.

- Deduct amounts actually paid for alimony or child support to individuals not living in the home other than those covered in those mentioned above.

- Show the remainder as income deemed to the stepchildren or minor parent, as appropriate.

Applicant/Grantee Relative Other than Parents:

Count the income of the grantee relative if the grantee relative is included in the AU. When the grantee relative is included in the AU, all of the income of the relative's spouse is considered available to the AU.

Individuals Whose Income is NOT to be Considered:

- SSI recipients (regardless of relationship).

- Ineligible relatives other than parents/stepparents that are not in the AU.

- Unrelated AU members.

- Individuals living outside the home except for a parent in the uniformed services and out-stationed. Cash contributions from individuals living outside the home are to be counted if more than $30 per quarter per member.

Calculating Income and Benefits:

- A Families First budget is the tool used to determine whether an assistance unit is in need according to state standards currently in use, and to determine the amount of payment an eligible assistance unit is entitled to receive.

- The eligibility and case management system calculates the Gross Income Test budget; Net Income Budget; and the final grant budget.

- The Families First budget sets out the gross income limits, the consolidated standard for the number of people in the assistance unit, the gross and/or net income available to the assistance unit, any deficit between the net income and the consolidated need standard, and the grant amount for which the assistance unit is eligible.

  The Consolidated Standard of Need is:

  - The basis for determining the gross income standard.
  - To determine eligibility for the $250 earned income disregards at the point of application.

The Families First payment does not meet 100% of need as defined by the consolidated need standard. A standard payment amount is set for each family size based on available state and federal funds. Income available to the assistance unit (after all appropriate disregards and deductions have been applied) is subtracted from the consolidated need standard to determine the deficit. Payment is the deficit or the standard payment amount for the assistance unit size, whichever is less.

If an assistance unit's available income equals or exceeds the assistance unit's consolidated need, the assistance unit is not eligible for a Families First grant. If there is a deficit of $1.00 to $9.99, no payment can be made, but the assistance unit is deemed to be a Families First AU for other purposes, including Medicaid coverage, as long as all other points of eligibility continue to be met. If the deficit is $10.00 or more and other eligibility requirements are met, payment will be made.

Families First payment are made on a monthly basis:

Initial payments are made beginning with the date of application, if all other eligibility factors are met at that time, or at the first of the month in which eligibility is achieved, whichever is later

The amount of the payment will be the deficit between the need standard and any countable income or the standard payment amount (whichever is less), but not less than $10.00.

Computing Income and Benefits:

The eligibility and case management system will perform the budget calculations.

The eligibility and case management system will group the filing unit. Countable income will be included. Technically ineligible children and their income will be excluded. Gross income is computed by totaling the gross earnings for all AU members and all countable unearned income plus income deemed from a stepparent/parent/guardian. If the countable gross income exceeds the gross income standard, the assistance unit is not eligible for assistance. EXCEPTION: Spouse's income when considering Marriage During the Receipt of Assistance.

If the gross income test is met, determine net income available to the assistance unit and subtract it from the applicable need standard. Net income is the countable gross income less any allowable earned income deductions and/or disregards.

The need standard less net income (after appropriate disregards) results in a deficit. The payment is the lesser of the deficit or standard payment amount for the appropriate family size. If the deficit is $1.00 - $9.99, the AU is not eligible for a grant.

Computing Prorated Income:

When the caseworker must manually determine the amount of income for a partial month payment, the proration calculator at www.sworps.utk.edu/induction/prorate.asp may be used.

Self Employment Income:

Income which is received annually, and/or which is an integral part of annual income, will be totaled and prorated over 12 months, even if the income is received only once or over a period of time shorter than 12 months. Such income usually is derived from farming, but also may apply to other self-employment enterprises.

Annual Income:

Income which is received annually, and/or which is an integral part of annual income, will be totaled and prorated over 12 months, even if the income is received only once over a period of time shorter than 12 months. Such income usually is derived from farming, but also may apply to other self-employment enterprises. Annual income will be prorated over 12 months even if a person has income from sources other than self-employment. Income received once annually will be prorated over 12 months beginning with the month the income is received.
Income which represents annual income, but which is received periodically during a year, will be totaled and averaged over 12 months. This average figure will be used to project future income (if all other factors remain relatively constant).

If a self-employed person is under contract, the 12-month period begins the first month the person receives payment under the contract.

Income from Migrant Labor, Seasonal Work:

An estimated average monthly income from migrant labor, seasonal farm work and other seasonal employment will be considered during the months it is received.

Monthly Self-Employment Income:

When self-employment income is received monthly, the average monthly income will be estimated based on past income and substantial changes in circumstances which have occurred, such as an increase or decrease in business.

Capital Gains are Income:

The proceeds from the sale of capital goods or equipment are calculated in the same manner as a capital gain for federal income tax purposes. Even if only 50% of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the caseworker will count the full amount of the capital gain as income.

Internal Revenue Service Publications:

IRS Publications 17, 334, and 533 provide detail on taxing self-employment income. They are available form IRS information offices.

Costs of Producing Self-Employment Income:

When a member of the AU receives income from self-employment, he/she will be required to keep a record of expenses incurred in the production of this income.

Expenses may include but are not limited to:

- Identifiable costs of labor (salaries, employer's share of SS, insurance, etc.).
- Stock, raw materials, seed and fertilizer, feed for livestock.

- Rent and cost of building maintenance.
- Business telephone costs.
- Costs of operating a motor vehicle when required in connection with the operation of the business.
- Interest paid to purchase income producing property.
- Insurance premiums and taxes paid on income producing property.
- Costs of feed for work stock.
- Costs of meals and equipment for children for whom day care is provided in the client's home.

Unallowable Deductions:

- Payments on the principal of the purchase price of income producing real estate and capital assets, equipment machinery, and other durable goods.
- Net losses from previous periods.
- Federal, state, and local income taxes, money set aside for retirement purposes, and other work related personal expenses (such as transportation to and from work). These expenses are accounted for by the flat work expense allowance in Families First.
- Costs of producing home produce intended for family consumption.
- Family living expenses.
- Depreciation.

Determining Monthly Income When Averaged:

For the period of time over which self-employment is determined, add all gross self-employment income (including capital gains), exclude the costs of producing the self-employment income, and divide the self-employment income by the number of months over which the income will be averaged.

Determining Monthly Income When Anticipated:

For those AU's whose self-employment income is not averaged but instead is calculated on an anticipated basis, add any capital gains the household anticipates it will receive in the next 12 months (starting with the date the application is filed) and divide this amount by 12. Use this amount in successive months during the next 12 months, unless the anticipated amount of capital gains to the anticipated monthly self-employment income and subtract the cost of producing the self-employment income. Except for depreciation, calculate the cost of producing the self-employment income by anticipating the monthly allowable costs of producing the self-employment income.

Assistance Units with Boarders:

AUs that take in boarders or that operate commercial boarding houses are considered self-employed. Identifiable expenses are allowed as costs of doing business, as in any self-employment.

- Determining Income for AU: The income from boarders (self-employment income) includes all direct payments to the household for room and meals, including contributions to the household's shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household are not counted as income to the AU.

- Cost of Doing Business: After determining the income received from the boarders, exclude that portion of the boarder payment which is a cost of doing business. The cost of doing business is equal to one of the following, provided that the amount allowed as the cost of doing business does not exceed the payment the household received from the boarder for lodging and meals:

  - The cost of the Thrifty Food Plan for a household size that is equal to the number of boarders.
  - The actual documented cost of providing room and meals if applicant claims actual costs exceeding the Thrifty Food Plan. If actual costs are used, the only separate and identifiable costs of providing room and board to the boarder are excluded.

Income of Resident Farm Laborers, Migrant AUs, School Employees, and other Contractual Employees:

- Resident Farm Laborer: The regular monthly income figure will be used to determine the amount of the Families First grant.

- Irregular Income - Single Employer: In some instances, the AU is paid for work done only during the work season, but resides year round on the farm and may receive advance or deferred payments, (sometimes known as "furnish"), during the non-work season. Some difficulty may be experienced in assigning an income figure to the farm worker whose income is high during the work season and correspondingly low during the non-work season when income is only from advance or deferred payments.

- Irregular income is to be averaged over a 12-month period.

- Regular or Irregular Income - Multiple Employers: When a farm laborer works regularly for more than one employer, the total income from all employers must be determined and then it is treated in the same manner as that received from a single employer. If work for multiple employers as irregular, the food stamp certification period should reflect actual income or variable basis of issuance should be assigned.

- Migrant Farm Laborer: It must be determined whether migrants have out-of-state income from real property in the home base area. A migrant family is permitted one home and lot as an exemption from resources as any other AU.

- The income of children in migrant households will be treated as that of any other child for whom eligibility is being determined. If the amount of income belonging exclusively to a child cannot be determined, prorate equally the total income of all household members and treat the child's prorata share as his/her own income.

- School Employees: The average monthly income of school employees will be considered available during the months it is received. Please note that some school employees are paid 9 months of the year, some are paid 10 months, and some receive pay 12 months. The caseworker must determine the pay arrangement a school employee may have so that income can be considered in appropriate months.

- Income of Other Contractual Employees: The average monthly income of persons employed on a contractual basis (other than school employees) will be considered as income during the period covered by the contract.

- Temporary Employment of Person Under Contract: In some instances, an employee under contract may accept temporary employment. For example: Many teachers and other school employees accept temporary employment during the summer months.

- After the appropriate earned income exclusions, disregards and deductions, income from temporary employment will be budgeted as available only in the months received. The same procedures outline in the section below on unemployment compensation will be followed.

- Unemployment Compensation: Employees with annual contracts such as school employees may be eligible for unemployment compensation when their employment ends. The client must be questioned to determine:

  - Whether or not he/she has filed a claim for unemployment compensation benefits.
  - If benefits are being received.
  - The amount of the benefits.

  Count unemployment compensation as income only in the months in which it is received. Do not annualize unemployment compensation benefits with income from contractual employment. The monthly amount of the unemployment compensation benefit will be added to the annualized monthly income from employment to determine income available to meet current needs. This will require possible adjustments in the grant both at the beginning and the end of the unemployment compensation benefit period.

FAMILIES FIRST NEED/PAYMENT STANDARDS EFFECTIVE 7/1/08:

Number of Persons in AU	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	1288	1658	1972	2240	2470	2666	2838	2991	3128	3256
Consolidated Need Standard	696	896	1066	1211	1335	1441	1534	1617	1691	1760
Standard Payment Amount	**95**	**142**	**185**	**226**	**264**	**305**	**345**	**386**	**425**	**467**
Differential Grant Payment Amount	*140*	*192*	*232*	*242*	*291*	*305*	*345*	*386*	*425*	*467*

Number of Persons in AU	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	3374	3487	3596	3702	3802	3898	3987	4064	4129	4175
Consolidated Need Standard	1824	1885	1944	2001	2055	2107	2155	2197	2232	2257
Standard Payment Amount	**508**	**549**	**589**	**630**	**670**	**711**	**750**	**790**	**831**	**871**
Differential Grant Payment Amount	*508*	*549*	*589*	*630*	*670*	*711*	*750*	*790*	*831*	*871*

TREATMENT OF CHILD SUPPORT INCOME

POLICY STATEMENT

The goal of Families First is to assist individuals in moving from welfare to economic self-sufficiency. Using child support to "fill-the-gap" of an assistance unit's unmet need is a critical tool to achieve this goal. **An assistance unit may be eligible to receive child support pass-through payments and Families First payments simultaneously.**

In order to receive Families First, the applicant/recipient must agree to assign to the state all child support while receiving Families First cash benefits. However, this does not mean that the client cannot receive Families First and child support payments at the same time. The AU can receive both Families First and child support if eligible for child support pass-through payments. Eligibility criteria for child support pass-through payments are explained later in this chapter.

Child support Distribution:

Effective October 1, 1998, the child support distribution rules changed for individuals who have received AFDC /Families First cash benefits in the past, but who are not currently receiving Families First cash benefits. Prior to October 1, 1998, if an absent parent made child support payments to a caretaker who had previously received AFDC/Families First cash benefits and the payments exceeded the current court ordered amount, the excess amount would be retained by the state to reimburse the AFDC/Families First benefits. However, effective October 1, 1998, if the absent parent owes child support arrears to a caretaker, the caretaker would receive the current and the arrears payments until those arrears are reimbursed. The state will not be reimbursed until after the arrears owed to the caretaker are paid in full. Arrears owed to the caretaker are called Unassigned Arrears. Arrears owed to the state are called Assigned Arrears.

As of October 1998, child support is distributed to the AU as follows:

- While the AU is receiving Families First cash benefits, eligible AUs will receive child support pass-through payments up to the unmet need. Any child support paid in excess of the child support pass-through payments is used to reimburse the state and federal governments for AFDC or Families First payments that the assistance unit receives or received.

- When the AFDC/Families First assistance unit is closed, any current child support paid will be issued to the caretaker.

- When the Families First AU is closed and the absent parent makes any arrears payments (with one exception), these payments will be sent to the caretaker if the absent parent owes any child support arrears to the caretaker. However, if the absent parent does not owe any child support arrears to the caretaker, child support paid in excess of the current court ordered amount will be retained by the state until the past or current AFDC/Families First grants have been reimbursed. Exceptions: IRS intercepts child support collections are always used to reimburse the arrears owed to the state first.

Counting Child Support in the Families First Budget:

If the absent parent is paying child support to a Families First assistance unit or applicant, the caseworker must determine if the absent parent owes child support arrears to the caretaker in order to establish the amount of child support to enter in the eligibility and case management system. Instructions on how to make this determination and how to code the eligibility and case management system are found in the Procedures section of this chapter.

The child support plus any other countable income that the AU has is used to determine Families First eligibility in the GIS and CNS tests. If the assistance unit is eligible with the child support included, the child support is removed from the calculation that determines the grant amount. The Budget Effective Date in the eligibility and case management system will ensure that the child support is removed from the grant calculation appropriately. Therefore, it is critical that the caseworker enter the correct Budget Effective Date. Establishing the correct Budget Effective Date is discussed in the Procedures section of this chapter.

Once the grant amount is calculated after taking into account any earned and/or unearned income, the remaining unmet need for the assistance unit can be filled by any child support collected for the children in that month. This is explained in more detail below.

History of Bonus, Supplements and Child Support Pass-Through Payments:

Until October 1996, when an absent parent made a child support payment for an AFDC/Families First assistance unit, the state issued a bonus child support payment (up to $50 per month) and retained the remaining amount of child support to reimburse any grant paid to the assistance unit. At the end of the month following the month in which the child support was paid, DHS would determine if the assistance unit was eligible for a supplemental AFDC/Families First payment. If so, the supplement was issued in the amount of the child support payment, less the bonus payment, up to the unmet need in the assistance unit's budget. <u>This supplement was an additional grant payment.</u>

Effective October 1996, the federal law changed, eliminating the bonus payment and allowing states to "pass through" the child support that was collected rather than making additional grant payments as supplemental payments. However, until the Tennessee Child Support Enforcement System, TCSES, was modified to handle the child support payments, these payments were still issued as bonus and supplemental payments and they continued to appear on the Cash Issuance History Screen in the eligibility and case management system as bonuses (code 103 or 106) and supplements (code 096 or 102).

In February 1998, TCSES was modified to issue child support payments, now called child support pass-through payments, to Families First assistance units. Any child support payments that are received for a month prior to February 1998, but processed after February 1998, are issued as bonus and supplements, if the assistance unit is eligible for a supplemental payment.

NOTE: If an overpayment occurs in the Families First case, any supplements <u>issued for a month prior to 10/96</u> should be included in the overpayment calculations since those payments were grant payments. <u>Any supplements issued for 10/96 or later</u> should not be included in the calculation since those payments were actually child support payments. If an overpayment

occurs because the supplemental grant payment was incorrect, the supplemental payment staff in the State Office will pend the overpayment claim.

Eligibility Determination for Child Support Pass-Through Payments:

Eligibility for child support pass-through payments is based on the AU's unmet need in its Families First budget. (Eligibility for the supplemental payment is determined in the same manner.) The unmet need is determined by subtracting the AU's Net Countable Income and the Families First grant amount from the Consolidated Needs Standard (CNS). This information can be found in the eligibility and case management system.

If the AU's unmet need is greater than "0," the AU is eligible for child support pass-through payments up to that amount. The amount of the child support pass-through payment is the amount of support paid during the month (both current and arrears payments) up to the unmet need amount.

Example: A three-person AU has no countable income other than the Families First grant. Child support is collected for 07/08.

CNS	$1,066.00
Countable Net Income	$0.00
Families First Grant Amount	– 185.00
Unmet Need	$ 881.00

If the absent parent for this AU pays $400 in child support for 07/08 the child support pass-through payment will be $400 because the unmet need is greater than the child support paid.
Example: The same three-person AU reports receiving countable income that is budgeted for 09/08.

CNS	$1,066.00
Countable Net Income	550.00
Families First Grant Amount	– 185.00
Unmet Need	$ 331.00

If the absent parent pays $400 for 07/08, the child support pass-through payment will be $331.00 because the unmet need is less than the child support amount paid.

NOTE: If the grant is less than the maximum grant for the AU size, there is no unmet need and no child support pass-through payment will be issued.

Discussion of Child Support with the Caretaker:

In discussing child support with the client, the caseworker will fully explain the child support pass-through payment. This discussion should include:

- Explaining how the amount of child support pass-through payment is determined (i.e. the amount of child support payments up to the unmet need).

- How the unmet need is determined (the CNS for the AU size minus the amount of net countable income in the Families First budget minus the grant).

- The amount of the AU's unmet need based on the current information in the case.

- That any changes in the AU's income will affect the unmet need and may, therefore, affect the amount of the AU's child support pass-through payment.

In order to fully explain the child support pass-through payment policy, the caseworker may provide examples that are specific to the AU's situation to show how changes in income will affect eligibility for child support pass-through payments. This will help the caretaker determine how additional income will affect her eligibility for child support pass-through payments. This will also help show that it may be to her advantage to continue to receive Families First and child support pass-through payments instead of direct child support payments alone. The caseworker can use the format above to set up these examples.

In addition, explain that if the Families First AU is closed, the amount of child support that the AU will receive depends on whether or not the absent parent owes arrears to the caretaker. (See distribution information above.) If the absent parent does not owe the AU any arrears, payments that exceed the current court ordered amount will be retained by the state to reimburse the AFDC/Families First cash payments that the AU has received in the past.

Determine if the absent parent owes the AU any child support arrears by reviewing the CSFS (Case Financial Summary) screen on TCSES. This is explained more fully in the Procedures section of this chapter.

Refer the AU to the local child support office or the Child Support Customer Service unit for any questions they have about the amount of assigned or unassigned arrears.

DOCUMENTATION

Document the eligibility and case management system:

- Child support pass-through payment eligibility was explained to the applicant/recipient.

- The AU was informed that they might be able to receive Families First and child support pass-through payments, if eligible. (This is especially important if the caretaker requests that the AU be closed because she/he is receiving child support).

- The Child Support Handbook was given to the applicant/recipient.

PROCEDURES

When the absent parent makes a child support payment for a child who is receiving Families First cash payments, either to the court or directly to the client, this money must be sent to the Department of Human Services.

- Enter the appropriate amount of child support paid in the Families First fields with an open End Date.

- If the absent parent owes arrears to the caretaker, enter the full amount of child support that the absent parent is paying on.

- If the absent parent does not owe arrears to the caretaker but does owe arrears to the state, enter only the amount of child support being paid up to the current court ordered amount on since any excess will be retained to reimburse the state.

- If the absent parent does not owe arrears to the state, enter the full amount of child support that the absent parent is paying on.

  If the absent parent is paying fluctuation amounts of child support, determine the representative income in the same manner as other fluctuating income is determined. However, the amount used should meet the criteria describe above.

  Determine if the absent parent owes the assistance unit any child support arrears by reviewing the CSFS (Case Financial Summary) screen on TCSES. If there is an Unassigned Arrears (arrears owed to the caretaker) amount on the screen, the caretaker will receive the current child support and the arrears payment until the Unassigned Arrears have been paid in full. If there are only Assigned Arrears (arrears owed to the state), then any payments that exceed the current court ordered amount will be retained by the state until the Assigned Arrears have been reimbursed.

  NOTE: The one exception to the above distribution rule is child support arrears paid through Internal Revenue Service (IRS) interception. All IRS interception payments are applied first to Assigned Arrears (owed to the state). However, IRS interception payments are not entered in the eligibility and case management system since they are not ongoing child support payments.

- Ensure that the appropriate Budget Effective Date is entered to ensure that the income is budgeted properly.

  - If the AU is approved **before** cut-off, the Budget Effective Date will be the first day of the month following the month of approval.
  - If the AU is approved **after** cut-off, the Budget Effective Date will be the first day of the second month following the month of approval.
  - If adding an absent parent to an open AU, use the same Budget Effective Date used for the other absent parents for that AU.

- Upon receipt, the Tennessee Child Support Enforcement System, TCSES, processes the child support payment for distribution. TCSES will determine if the AU is eligible for a child support pass-through payment based on the AU's unmet need which has been transmitted to TCSES by the eligibility and case management system.

- If the AU is eligible, TCSES will issue the child support pass-through payment. This is reported to eligibility and case management system after the end of the month in which the child support pass-through payment was issued. Child support pass-through payments are posted on eligibility and case management system in two different ways depending on the month <u>in which the payment was issued</u>. Child support pass-through payments issued prior

to July 1999 will appear on the FF payment screen with reason code 096. Child support pass-through payments issued July 1999 onward will appear on the unearned income screen.

- If the child support payment was collected for a month prior to February 1998, but was not issued as bonus/supplement, TCSES will issue a bonus payment up to the amount of the current court ordered amount or $50, whichever is less. If the child support payment was more than the bonus amount paid, TCSES will notify the State Office supplemental payment staff about the collection. The State Office supplemental payment staff will determine if the AU is eligible for a supplemental payment. If so, the staff will issue a manual supplemental check through the eligibility and case management system. (**NOTE**: These supplemental payments are not issued through EBT.) These payments appear on IQCH as bonus (code 106) and manual supplement (code 102) payments.

- The recipient may contact the county about a supplemental payment that has not been issued from child support payments for a month prior to February 1998. In those instances review the case to determine if the AU is eligible for a supplemental payment (has an unmet need for the month in question that is greater than "0"). If so, contact the State Office supplemental payment staff to determine why a check was not issued.

- **NOTE**: If the grant is less than the maximum grant for the AU size, there is no unmet need and the AU is not due a supplemental payment.

- The recipient may also contact the county about a supplemental check that was issued from child support payments for a month prior to February 1998 that the recipient has not received. In those instances, request a replacement of that check in accordance with the procedures outlined in the Continuing Responsibilities Chapter of the Families First Handbook.

- The recipient may contact the county about a child support pass-through payment or bonus payment that was either not issued or that the recipient did not receive. In those instances, refer the recipient to the Child Support Customer Service unit. **NOTE**: If the child support is voluntary (there is no court order), it must still be sent in to the state. However, this money will not be issued until Child Support enters a "voluntary court order" on TCSES.

NOTE: All bonus payments and child support pass-through payments that appear on FF payment screen show a Warrant Date. This date reflects the TCSES/eligibility and case management system interface date, not the actual issuance date of the check. In addition, all bonus and child support pass-through payments on FF payment screen show an "RM" Disposition Status, regardless of the actual status of the check. TCSES shows the actual issuance date and status for these checks.

TIME LIMITS

POLICY STATEMENT

Families First assistance units have eligibility time limits. A time limit is defined as a range of months in which an assistance unit will work to achieve self-sufficiency.

All AUs with eligible adults are limited to 60 months of Families First assistance in a lifetime. Every month in which an AU receives cash assistance counts toward this limit. This is true even if one or both adults are exempt.

DHS employees will be responsible for ensuring that no AU is terminated from the Families First program prematurely. The 60-month time limit must be verified prior to beginning the case closure process.

EXCEPTIONS

Child Only cases (defined as those with an SSI caretaker or a non-parental caretaker who is not included in the AU) are exempt from the time limit policy.

Months of TANF Received in another State or Territory

- Months of TANF assistance received in another state or territory after July 1, 2007 count towards the FF time limit.

- Months of TANF received in another state or territory before July 1, 2007 will count for all applicants who apply for FF July 1, 2007 or later (this includes new applications and reapplications). Reapplication means the person has been off the program for at least 30 days.

- Months of TANF assistance received in another state or territory before July 1, 2007 will not count for FF cases that are active as of July 1, 2007 (as long as the case remains open).

Months When the FF Grant is Less than $10:

- All months in which a grant is reduced to less than $10 due to AU income or Families First recoupment are considered non-countable months.

- Months in which a grant is reduced to less than $10 due to Bankruptcy will be considered countable months

When does the time limit begin?

The time limit begins with the first month an AU receives a cash assistance payment, even if the first month is a partial month.

Time Limit Extensions:

A six-month extension will be granted to all caretakers who reach the 60-month time limit prior to July 1, 2008. Following the initial six-months, the extension will continue only if the caretaker meets the good cause criteria discussed in the following section.

Good Cause Time Limit Extensions:

Good cause must be evaluated for a time limit extension when:

- The assistance unit is approaching the 60-month time limit.

Good cause may be granted for the following periods of time when the caretaker reaches the 60-month limit and is exempt from the work requirements because he/she is:

- 60-64 years old as of July 1, 2007 (See NOTE below)
- 65 years old or over (indefinitely).
- Disabled (until the disability ends).
- Temporarily incapacitated (until the incapacity ends).
- Caring for an in-home disabled relative (until the disability ends). **(Bulletin 37, FA-08-28)**
- Involved in a significant life crisis (2 months) – **NOT EFFECTIVE UNTIL 2/1/08 (following the initial 6-month extension).** A significant life crisis may include, but not be limited to:

  - Eviction from home.
  - Domestic violence.
  - Family crises (illness or death of a family member).
  - Natural disaster.
  - Drug treatment.
  - Complications of pregnancy/recent birth.

  An extension based on a temporary life crisis must be approved by a Families First supervisor.

NOTE: Caretakers 60-64 as of July 1, 2007 will be "grandfathered" in and may be considered exempt until case closure. If the individual reapplies after case closure and has not reached age of 65, he/she will have a work requirement.

Process for Good Cause Time Limit Extensions:

- Evaluate good cause when an assistance unit reaches the 59th month in the 60-month lifetime limit and is subject to termination at the end of the next month.

- If good cause does not exist, close the case and open TCC. If the AU has not cooperated with Child Support, the AU will not be eligible for TCC.

- If good cause does exist (and all other eligibility requirements are met), continue Families First benefits.

Two Parent Assistance Units:

The number of countable months for a two parent household will be the same for both adults.

EXAMPLE: if the parents separate with 25 countable months and the parent who was not the caretaker applies for Families First, the time count for the new case will begin at 26 months.

The number of countable months in a combined two-parent household will be the higher number of months if the combination of assistance units results in one assistance unit.

EXAMPLE: A parent with 10 countable months marries a parent with 15 countable months. They have a child in common. One assistance unit will be formed with a time count of 15 months. They stay together for 12 months and then separate. Each parent may again have a separate assistance unit with a count of 27 months.

When an adult who is not exempt from time limits may have more than 60 months of eligibility:

- An adult who has received 60 months of assistance in one assistance unit may receive Families First again only as a Child Only caretaker. He/She cannot be included in the AU.

When a child may have more than 60 months of eligibility

- A child who was in an assistance unit that reached its time limits can later apply for his/her own assistance unit as an adult.

- A child who is living with a particular caretaker (mother, for example), and loses eligibility due to time limits, may be eligible in the future if he/she lives in the home of a different caretaker (grandmother, for instance), whose time limits have not expired.

Re-entry Following Closure for a 60-Month Time Limit:

There are no provisions for re-entry following case closure for time limits.

VERIFICATION

Verifications must be provided:

- To establish a good cause extension reason such as disability or incapacity, proof of the individual's disability or incapacity must be provided by the client unless the information is available to the caseworker through an alternative source such as SDX. If a caretaker claims incapacity, the AU's time count will be extended while the incapacity is explored.

- To establish a good cause extension for caring for a disabled relative living in the home, proof must be from a qualified physician or other health care professional and must indicate that in-home care is required. Determine if there are other family members in the home who provide or could provide the care.

- To establish whether a disabled in-home relative requires in-home care. **(Bulletin 37, FA-08-28)**

- To establish an extension due to age. The caretaker must have proof that he/she is age 65 or older. Verification can be taken from any document that validates the age or provides supporting evidence that the individual is at least age 65.

- To establish an extension due to a significant life crisis.

- To establish months of TANF in another state or territory.

DOCUMENTATION

The eligibility and case management system case file must contain:

- The reasons for any determination regarding time limits (exemptions for child only or extensions). The factual basis for any determination must be documented as part of the eligibility and case management system file by noting the appropriate code that specifies the reason for the action (child only exemption or extension). If the AU is not entitled to an exemption or extension, the specific factual reasons for that determination must be recorded in the eligibility and case management system.

- Documentation of the findings of the 59-month time count review. This review is required of all cases approaching the 60-month lifetime limit and should include an assessment of the countable months.

PROCEDURES

- Obtain sufficient information during the eligibility interview to establish the time limit exemption status of the assistance unit.

- Explain the 60-month lifetime time limit to the client at each application/renewal. Remind the AU of the number of countable months left in their current 60-month period of eligibility.

- Evaluate reasons for extensions; continue eligibility or terminate benefits as appropriate; and, if the AU closes, evaluate for TCC.

Evaluate the time count prior to receipt of assistance to determine its impact, if any, on the current request for assistance.

CHILD CARE

POLICY STATEMENT

The success of Families First in supporting the goal of self-sufficiency for its participants is dependent on the existence of affordable, accessible, quality child care. Care that provides for a child's well-being and development is central to a parent's ability to participate in all work activities of the Personal Responsibility Plan, from the individual's first activity to full-time employment and as a support service after the individual leaves the program.

The following types of child care assistance are available to families receiving, or transitioning off of Families First:

- **Families First Child Care** pays for child care while the Families First caretaker, adult or minor parent is participating in work, education, and training activities. This child care includes the participant's travel time to and from these activities.

- **Transitional Child Care** is available for 18 months after the Families First cash assistance stops. TCC requires the caretaker to contribute to the cost of care.

- **At-Risk Child Care** families may be eligible for an additional 12 months of child care when TCC ends, based upon funding availability.

- **At-Risk Child Only (ARCO)** is for Families First Child-Only caretakers who meet Transitional Child Care (TCC) and At-Risk policy guidelines. If qualified, a family is eligible for 1 year of assistance.

Certain eligibility criteria determine which children receive child care services**.** Care is available for:

- Children under age 13.

- Children age 13 and older who are under court supervision.

- Children age 13 and older who are physically or mentally incapable of self-care.

- Children who live in the home and for whom the caretaker has care and control but who are not in the assistance unit.

- Children who would be included in the assistance unit except for the fact that they receive SSI.

- Child care payments will not be made to:

  - The child's parent, step-parent, guardian, or any member of the assistance unit.
  - Persons or agencies found guilty or validated as child abuse perpetrators.

- The caretaker relative has certain choices regarding how child care is paid and to whom. The caretaker may choose regulated or unregulated care. Regulated care is licensed by the Department. Unregulated care is not licensed, but is monitored by the child care specialist.

- Unregulated care may not be provided in the child's home, unless it is also the provider's home.

- Child care is provided in units of care based on the number of hours for which child care is needed per week, i.e., full-time, part-time, or extended time.

  - A full-time unit of care is defined as a weekly schedule of 20 to 60 plus hours of child care needed. Child care can be provided while the parent or caretaker works, goes to class or other educational/training activities such as lab, study, or tutoring; and the traveling time to and from these activities and the child care provider.
  - A part-time unit of care is defined as 1 to 19 hours per week, e.g., for a child who only needs before and/or after school care or for child care needed while the parent or caretaker attends FSC assessment, unless there is no part-time care available. **(Bulletin 29, FA-08-21)**
  - An extended time unit of care is only for Families First participants. If a participant is placed in activities that require more hours of child care than allowed by one full-time unit of care, then the participant may receive an extended time unit which provides up to 150% of a full-time unit. Only a DHS supervisor can authorize extended time units. TCC cases are not eligible for extended time units, even if the AU received extended time while they were in the Families First Program.

- Minor parents, who are ECs and have signed a PRP, will also receive Families First child care if the child care is required for them to fulfill the obligations on the PRP. Child care will not be provided if the caretaker (whether EA or NA) is able to provide child care.

Child Care Disregard:

- Families First participants who are employed or in a paid work activity and need assistance with child care have two options. They may choose:

  - Child care paid by DHS directly to the provider.
  - A child care deduction used in the Families First budget for the cost of care.

- The DHS caseworker will explain these options to the participant and determine which method of meeting child care expenses is to the participant's advantage. The maximum child care disregard per child is:

  - $200.00 per month for children under two years of age.
  - $175.00 per month for children two years of age and older.

- The disregard cannot be given in the same month that a direct child care payment is paid by DHS. If the caretaker has received a disregard, payment for child care will begin the month following the removal of the disregard.

Families First Child Care (FF):

In order to receive child care assistance, the child care must be necessary for the caretaker to participate in work activities. Child care is not provided if the caretaker can arrange for free care or the children are in school during the hours the client will participate in work activities. Child care assistance will not be given to a two-parent family (Unemployed Parent case, incapacity or married during receipt of assistance), if one parent is able, willing, and appropriate to provide care in the home. Child care will not be given to a minor parent who is an EC if the caretaker of the AU can provide the care.

- The referral that is sent to the child care specialist is open-ended. Child care eligibility and the eligibility end date must be reviewed during each contact between the caseworker and the participant.

- Child care is available, if needed, on the first day of participation in an activity, employment or while the parent or caretaker attends FSC assessment. **(Bulletin 29, FA-08-21)**

- Child care is available for all eligible adults (even if they are disqualified) if they are in a work activity. If the eligible adult is exempt from the work requirements, he/she may still be able to receive child care if he/she volunteers for a work activity or agrees to FSC assessment. **(Bulletin 29, FA-08-21)**

- Child care cannot be provided prior to the approval for Families First, <u>except</u> when the caretaker is participating in an activity during the required 5-day compliance period to cure a sanction.

- Child care assistance will be terminated for Families First participants who are non-compliant with their Personal Responsibility Plan.

  If the participant makes contact, either during the conciliation period or at a later date, and is determined to have had good cause for the non-compliance situation, or agrees to comply prior to the eligibility termination date, the caseworker/client rep will restart the child care. Prior to restarting child care, the caseworker/client rep must determine that child care is still needed by the participant. Child care will be restarted with no break in coverage if immediate child care is required in order to participate. Otherwise, child care will be restarted effective with the date the individual has agreed to return to the activity.

  If the participant fails to comply for the 5-day period, the child care will be terminated.

  In the event the Families First case is being closed for cash benefits, and there is an open FF child care case, the child care case will be terminated effective with the date the adverse action period expires.

  Exception: Families First participants, who are <u>currently employed</u>, will have a child care termination end date that corresponds with the effective date of case closure.
  Child care will be provided for hours associated with the employment. This will allow participants to continue to receive child care uninterrupted while they are moved to Transitional Child Care (TCC).

- At the time of approval, child care can be provided back to the date of application for the time that the participant was working or was in an activity that would qualify as a PRP work activity. The child care payments may be issued to the participant or the child care provider, as determined by the child care specialist. Retroactive Families First child care will not be provided if:

  - The participant chose the child care disregard for the months in question.
  - The AU was eligible for TCC during the application period.
  - The AU was ineligible for cash payment, unless the individual was complying for 5 days to remove a sanction.

- Child care will be provided, if needed, while a parent is in a drug/alcohol or mental health treatment program.

- Child care will not be terminated when the caretaker is between work/training activities. The provider will retain a child care "slot" for the child for thirty days. If the break between activities will last more than thirty days, the child care should be terminated.

- Retroactive cash reimbursement will be authorized to a caretaker who verifies he/she paid child care costs during a period of Families First eligibility and received no disregard and no direct payment was made to the provider by DHS during that time. This reimbursement cannot exceed the State allowable rate for the type of child care provided. The caretaker will be referred to the child care specialist to request the reimbursement.

Transitional Child Care (TCC):

- An Assistance Unit (AU) is eligible for TCC for 18 months beginning with the month after the Families First AU becomes ineligible. This applies to all case closures, EXCEPT:

  - Cases closed for non-cooperation with Child Support.
  - Cases closed due to the AU moving out of state.
  - Cases closed that have no eligible adult.
  - Cases closed that have no minor parent (EC) who has signed a PRP in the AU.
  - Cases approved for interim benefits and later found to have been ineligible for Families First. **(Bulletin 28, FA-08-20)**

- The caretaker is required to contribute to the cost of care by paying a weekly co-payment fee based on the family's income and number in the household. The child care income guidelines used to determine if a participant qualifies for TCC are based on 60% of the State Median Income.

- Eligibility for Transitional Child Care (TCC) ends when:

  - The caretaker fails to pay required parent co-pay fees or to make acceptable payment arrangements.
  - The only child in the assistance unit leaves the home.
  - The caretaker fails to cooperate with child support requirements as determined by DHS.
  - The 18-month TCC eligibility period ends.

- To qualify for TCC assistance, the AU's caretaker must:

  - Have an eligible child.
  - Meet the 60% of the State Median Income guidelines.
  - Cooperate with child support requirements.
  - Meet a 30-hour per week work requirement with employment and/or education/training. Further explanation of this qualification follows.

    - Individuals who are employed but earning less than minimum wage will have their hours determined by dividing their gross income by the current minimum wage.
    - Individuals who are self-employed will have their hours determined by dividing their net self-employment monthly income (gross minus allowable expenses) by the minimum wage.
    - Individuals who are attending a post-secondary institution are not required to be full-time students for their education hours to be considered.
    - Post-secondary credit hours can make up any of the required 30 hours. Study hours are included. **(Bulletin 37, FA-08-28)**
    - Paid and unpaid work-study hours are countable.
    - Mandatory laboratory hours are countable.
    - Tutoring hours received or provided by the participant are countable.
    - Teen parents who are in high school and are maintaining satisfactory grades and attendance have no additional requirements.

  The At-Risk and At-Risk Child Only programs have the same qualification requirements as TCC.

  The child care specialist will determine whether the employment and activity hourly requirements are being met by the participant.

- **Qualification for Transitional Child Care (TCC) Assistance Ends When:**

  – Eligibility for TCC ends.
  – The family's gross monthly income exceeds 60% of the State Median Income for that size family.
  – The caretaker no longer fulfills the work requirement.
  – A participant who is employed and/or in an education/training program for at least 20 hours at the time TCC eligibility begins, fails to raise his/her hours to meet the requirement within 30 calendar days (of the date he/she qualified for TCC).
  – A participant's activity hours fall below the required 30 hours and the participant does not regain the required hours within 30 calendar days.
  – A participant fails to pay late parent fees after attempts by the provider and the child care specialist to collect the fees or to set up a repayment plan. The provider will continue to receive state reimbursement while the provider and child care specialist attempt to collect the fees and while the repayment plan is being developed.

  NOTE: If the participant agrees to try and increase his/her hours but fails, he/she will no longer qualify for TCC. The agreement to make the attempt just gives the individual

more time to meet the qualifications. Participants who refuse to attempt to increase their hours will not qualify, at the time of the refusal.

If the AU does not qualify for TCC at the time of FF closure but later qualifies during the 18-month eligibility period, payments will begin at that time. Child care assistance will continue for the remainder of the eligibility period as long as the AU qualifies for TCC payments.

- There is no requirement for a set period of time to receive cash assistance prior to case closure in order to be eligible for TCC. For example, if a Families First case is closed after just one month of assistance, the family is eligible for Transitional Child Care.

- If a participant who is receiving TCC reapplies for Families First and is determined to be ineligible for cash assistance, the participant will continue to be eligible for the remainder of the original 18 months of TCC. For example, a participant who has used eight months of TCC reapplies for Families First and is determined ineligible, the participant is eligible for the remaining ten months of the original 18 months of TCC.

- A Families First AU is eligible for 18 months of TCC each time the AU closes. For example, an AU has used six months of TCC, reapplies for Families First and is approved. At a later date, Families First assistance closes and the AU is again eligible for 18 months of TCC.

At-Risk Child Care Assistance – Two Types:

- **At Risk Child Care (ACC) Following TCC Expiration**

  - TCC recipients who are receiving assistance in the 18th month of their TCC eligibility may receive an additional 12 months of child care assistance under the At-Risk program. These individuals must continue to meet all TCC qualifications.

- **At-Risk Child-Only (ARCO)**

  This type of child care is available to Families First child-only assistance units.

  - ARCO caretakers must meet TCC qualifications.
  - Child Care certificate agencies will determine ARCO eligibility.
  - ARCO caretakers will be eligible as long as they meet eligibility criteria and funding remains available.
  - Child Care certificates will be issued for a six-month period at which time continued eligibility will be reviewed.
  - ARCO caretakers must pay a parent fee (co-pay) based on their income.
  - Eligibility for ARCO child care will begin effective the date of the interview with the child care certificate agency.
  - SSI child-only caretakers may receive ARCO child care IF they meet the qualifications.
  - Child-only caretakers who are eligible adults in another Families First assistance unit will not be eligible for ARCO. They will receive their child care through the Families First program if they meet Families First requirements.

<u>Administrative Responsibilities:</u>

It is critical that families in need of child care assistance receive prompt and timely services for the arrangement of child care. Children must be enrolled in a child care program before their parents can report to work, education or training. Good client service must be available in every county from Certificate Program staff and FA staff, to help parents choose a good quality child care program.

DOCUMENTATION

List the Families First child care effective date, date referred and the completion date in accordance with eligibility and case management system instructions. The caseworker/client rep must document any pertinent information about child care in the eligibility and case management system. This includes, but is not limited to:

- The caretaker's choice of child care.
- When the Families First child care or TCC referral was made to the child care specialist, if the referral was a manual one.
- Any problems that the caretaker might have either finding or keeping appropriate child care.
- The caretaker's decision to choose the child care disregard instead of the Families First child care.
- The begin/end dates of the disregard.
- Reasons for termination/reduction of child care.
- When notification of termination/reduction in child care and rights and responsibilities sheet was sent to the participant and child care specialist.
- An explanation of why a TCC referral was not sent for a closed AU.

PROCEDURES

DHS Caseworker/Client Rep Responsibilities

- DHS caseworker/client rep will determine eligibility for Families First child care and Transitional Child Care.
- The caseworker/client rep will complete the child care referral by using the eligibility and case management system Child Care Referral Screens to TCCMS.

  NOTE: The caseworker/client rep must use the form found in Shared Base Documents when making a child care referral for Ineligible Aliens, Drug/Fleeing Felons, and FF/IPV Disqualified Individuals. These participants must be fiated to show a "fail" status. Since these participants are in "fiat" status, the eligibility and case management system will not allow the caseworker/client rep to select them as caretakers. The caseworker/client rep will complete each item on the referral form, including the individual's Families First work and work related activities, and the hours involved in the activities. All of the information on the

referral form is necessary for the child care specialist to begin the process of arranging child care. The caseworker/client rep will e-mail the referral to the child care specialist:

- As soon as the need for Families First child care is identified.
- At the same time that the Families First AU is closed (for Transitional Child Care).
- Anytime there is a change to or termination of the existing child care.

- The referral for the Families First child care may be needed during the application period if the individual is serving a 5-day compliance period at the time of approval, or later during the period of eligibility. It is critical that the referral be made as soon as the need is identified, so that child care arrangements can be made within two weeks.

- The caseworker/client rep will give the information sheet that explains basic Families First child care and TCC requirements to the participant. Be sure to include the Child Care Certificate Program agency's name, address and telephone number on the information sheet.

- The Families First child care referral is for 12 months and the TCC referral is for 18 months. The caseworker/client rep is responsible for terminating Families First child care when a need no longer exists or the AU is closed.

- The caseworker/client rep will process changes reported by either the caretaker or the child care specialist within five work days.

- The caseworker/client rep will notify the child care specialist immediately, but no later than five days, of changes that are reported to DHS that will affect Families First child care eligibility. Such changes include adding a child, a change in the Families First activity, a lapse in a PRP activity, and the length of time before the individual will resume an activity.

- **It is very important for the caseworker/client rep to explain that the child care payments do not begin until the participant goes to the child care specialist and gets the child care certificate**. If child care arrangements are made before contacting the child care specialist, problems can occur in reimbursing the provider and may impact the participant.

- The caseworker/client rep must contact the participant when the child care specialist reports that a child has ten or more absences from child care. An unusually high number of absences may indicate that the individual is not participating in the Families First activity or there may be other problems that impact the AU's Families First eligibility or affect the individual's ability to comply with the PRP.

- When Families First child care hours are reduced or terminated, the caseworker/client rep will send a free form notice to the caretaker to explain this action. This notice should be sent as soon as possible after the caseworker/client rep becomes aware that the child care will change and before the hours are reduced or terminated. **The caseworker/client rep must also include the sheet that explains the individual's rights and responsibilities with the notice.**

- DHS must also inform the child care specialist when the Families First child care hours are being reduced or terminated.

- Caseworker/Client Rep determine good cause for issues that may result in a termination or reduction in child care. A good cause determination is necessary when:

  - The caretaker does not provide requested information to the child care specialist.
  - The caretaker does not cooperate with child support collection.

- Caseworkers/Client Reps will discuss the child care policies regarding the 30-hour TCC work and/or education/training requirement with Families First participants when they report changes that may close the Families First case. Participants will need to be aware of what to expect with TCC. It is important that the caseworker/client rep discuss with the participant that TCC is a benefit provided to help the participant prepare for self-sufficiency.

- The caseworker/client rep will refer to the Monthly Income and Fee Table to show the participant the income levels that are required to qualify for TCC.

Child Care Specialist Responsibilities:

The child care specialist will:

- Determine the caretaker's child care needs based on the individual's activities, including the number of hours of care and whether care is needed on week-ends or nights.

- Make child care arrangements within seven days after receiving a Families First referral. The child care specialist will make an initial contact (either by phone, in person or in writing) with the participant within three days after receiving a referral. The child care specialist will assist the participant in placing the referred child in an appropriate care arrangement within four work days of the date the child care specialist contacts the participant.

- Notify the DHS caseworker/client rep when child care arrangements <u>cannot</u> be made for a Families First AU within seven days. The child care specialist will explain what efforts are being made to arrange child care.

- Complete a child care certificate for each child. Families First participants should not place their children in child care before receiving a child care certificate from the child care specialist.

- Report changes and respond to notices of change from DHS caseworker/client rep and providers within five workdays.

- Calculate the parent co-payment fee, which the participant pays directly to the provider. Participants receiving Transitional Child Care and At-Risk programs are responsible for contributing a portion of their income to pay for their child care. The parent co-payment fee is based on a percentage of the participant's gross monthly income. DHS assumes no responsibility for any charges by a provider that are over and above the established state rates for that type of care.

- Provide counseling on parental choice for the type of care appropriate for the family's needs; the importance of choosing quality child care; and on the parent's responsibility for monitoring the children's care.

- Provide financial counseling to help caretakers plan for full payment of child care costs.

- Provide local resource and referral services for locating a provider near the family home or work site.

- Provide limited mediation between the participant and provider to resolve care problems and the need for emergency care arrangements.

- Conduct a review of continued qualification for all TCC/At Risk cases at least every six months. In addition, the child care specialists are encouraged to conduct desk reviews of all cases every three months to provide effective case management.

- Monitor child care attendance. The child care specialist will notify DHS if a Families First child has ten or more unexplained absences.

- Give child care providers verbal notice of a child care termination within 24 hours and a written notice within three days, when they are notified by DHS that a child care case is to be terminated or reduced.

Joint Responsibilities:

The DHS caseworker/client rep and child care specialist share some responsibilities that require cooperative interaction between the two in order to accomplish specific goals. One of these responsibilities is the termination of child care when the participant is non-compliant, and the other is the implementation of the appeals process.

Suspension of Child Care:

- Suspension of child care:

  At the point the DHS caseworker/client rep takes action on a case that will authorize closure of the Families First cash case, child care eligibility will be suspended. The suspension effective date will be equal to the expiration date of the adverse action period; 10 calendar days from the date the case was closed on the eligibility and case management system (begin the count with the day following the mailing date of the notice). If the 10th day falls on a weekend, or a holiday, the adverse action period will be extended until the next working day. Once the child care specialist receives the suspension notification, he/she will send written notice of suspension to the participant and the child care provider.

  EXAMPLE: The DHS caseworker/client rep takes action to close the Families First case on 7/24/07 due to the participant's failure to show for a renewal appointment. The closure is authorized in the eligibility and case management system on 7/24/07, with a closure effective date of 8/31/07. The eligibility and case management system mail date is 7/25/07. The DHS caseworker/client rep enters the date of 8/6/07 as the suspension date in the eligibility and case management system for the FF child care.

  EXCEPTION: DO NOT suspend child care if the participant is currently employed. For cases in which the participant is employed, the child care will have an eligibility end

date that corresponds with the effective date of Families First closure. This will allow the participant to continue to receive child care uninterrupted while they move to TCC.

- Contact during Adverse Action:

  If the participant contacts the DHS caseworker/client rep during the adverse action period and the Families First case is reopened, the child care case will be restarted if child care is still required by the participant. If child care is required by the participant in order to comply with the work plan, restart the child care with an eligibility begin date the day after the previous suspension end date, or the date the participant is scheduled to return to his/her activity (whichever is later).

- Correcting the Funding Stream to TCC:

  Once the DHS caseworker/client rep completes the authorization to close the Families First case, the eligibility and case management system will change the funding stream from active Families First child care to TCC. This date needs to correspond with the first of the month in which the case moves to transitional status.

Implementing the Appeals Process:

Recipients of child care assistance may appeal any action or failure to act in relation to child care as with any other benefit provided by DHS. The appeal must be filed in a timely manner that is within 90 days of the action.

- A participant may appeal:

  - Failure to take into account a child's special needs.
  - Failure to provide the caretaker an opportunity to choose a child care arrangement when more than one type of child care is available.
  - Failure to accept a person's refusal of available appropriate child care if she can arrange other child care and can show that her refusal will not interfere with employment or a work activity.
  - Failure of the child care provider to allow parental access to the child.
  - Unresolved questions about the computation of the TCC income or fee.
  - Failure to provide timely and adequate notice of adverse action.
  - Other actions or failures to act which the participant chooses to appeal.

- If a participant wishes to appeal, the child care specialist, or any DHS staff member will accept the appeal request, either verbal or written, and immediately notify the other entity that an appeal has been filed. Decisions regarding the acceptability of an issue or the timeliness of an appeal are made by Administrative Review.

- The procedures for filing an appeal are the same as those described in the Appeals section of this Handbook. A copy of the Appeal for Fair Hearing Form (HS-0008) will be furnished to the child care specialist.

- The caseworker/client rep and child care specialist will confer as necessary in preparation for the hearing.

- If the appeal was filed within ten (10) days of the action and the participant requests that child care continue, TCC payments must be continued pending the appeal decision. If the county action is upheld, the continued benefits become an overpayment subject to recovery.

- Child care payments must also continue pending an appeal if the assistance unit requests the benefits to continue, and the individual is employed or continues to participate in a work activity. If the county action is upheld, the continued benefits become subject to recovery.

- The hearing will be conducted by DHS as any other appeal hearing. For example, the appellant has the right to be accompanied to the hearing by whomever the individual chooses.

- The child care specialist and the caseworker/client rep will participate as necessary in the hearing and carry out the final order of DHS.

SANCTIONS

POLICY STATEMENT

Sanctions are applied to Families First assistance units when the AU has not complied with the Personal Responsibility Plan and good cause does not exist for the non-compliance reason.

While a sanction is sometimes appropriate or necessary, the caseworker/client rep should work with the Families First recipient to avoid sanctions. Sanctions not only limit the individual's ability to benefit from the Personal Responsibility Plan, but can also impact the AU's Families First cash payment. Every effort to explain the requirements and options to the client should be made, as a clear understanding of program requirements can prevent acts of non-compliance.

When it is obvious that an individual is not meeting a PRP requirement, it is the caseworker/client rep's responsibility to pursue the reason for non-compliance and evaluate possible good cause reasons for the non-compliance. Skillful interviewing and good case management practices can help the individual overcome the current reasons for non-compliance and prevent acts of non-compliance in the future.

Sanctions are applied to Families First assistance units for the following reasons:

- Failure to cooperate with work requirements.
- Voluntary termination of employment (voluntary quit).
- Failure to cooperate with Child Support.
- Failure of the minor parent to attend school.
- Failure of other AU children to attend school.
- Failure of the AU children to have immunizations and/or health checks.

FAILURE TO COOPERATE WITH WORK REQUIREMENTS

POLICY STATEMENT

Eligible assistance unit adults who are not exempt from work are required to have a 30-hour PRP work requirement. Non-exempt adults must be in compliance with their work activity or face possible sanction if good cause for non-compliance does not exist. This includes adults with a modified work plan who may not be able to participate for 30 hours due to an ADA-covered disability. Remember that individuals who are sanctioned **prior** to the discovery of an ADA issue may have their sanction removed if it is discovered the action that lead to the sanction was the result of an ADA- related disability. However, if the individual is assessed by FSC and is deemed to be able to participate a certain number of modified hours and then fails to do so, that individual may then be sanctioned. **(Bulletin 29, FA-08-21)** If an individual has FSC activities being counted toward Job Search/Job Readiness hours and he/she fails to participate in FSC, the

non-compliance will result in a sanction. **(Bulletin 37, FA-08-28)** In two-adult families, this could affect either one or both adults (see the discussion on non-compliance and absence rules in the Work Requirements Chapter).

NOTE: If either parent in a two-parent AU is sanctioned, the entire AU will be ineligible.

A Families First sanction for non-compliance with the work requirement will:

- Cause ineligibility of the entire AU.
- Continue until the adult is in compliance.

NOTE: If an employed individual is fired (without good cause), treat the action as non-compliance with a work activity.

SANCTION/CONCILIATION PROCESS

- **Step 1** – Receive an alert from the eligibility and case management system indicating non-compliance.
- **Step 2** – Close the case within 3 business days of learning of the non-compliance.
- **Step 3** - Issue a closure notice (adverse action notice). Note that the conciliation period and the 10-day adverse action period run simultaneously.
- **Step 4** – Attempt to contact the client by phone, following closure.

  NOTE: If the caseworker/client rep attempts a call and the line is busy, the caseworker/client rep must attempt another contact for each time the line is busy. If the line is out of order, then no further attempt to contact by telephone is necessary. In addition, if the client does not have a telephone, but a message number is listed, the caseworker/client rep will attempt to reach the participant at a contact number and leave a message.

If the client makes contact during the adverse action period and has verified good cause:

- **Step 5** – Reopen the case.
- **Step 6** – Refer the client back to the Families First work activity contractor.

If the client contacts during the adverse action period and does not have good cause, but wants to comply:

- **Step 5** – Refer the client to the FF work activity contractor.
- **Step 6 –** Monitor 5-day compliance.
- **Step 7 –** Reopen the case, following compliance.

If the client contacts <u>after</u> the adverse action period, and wants to comply, the client must reapply and comply for 5 days before the case can be re-approved.

During the personal contact, attempt to:

- Establish whether there was good cause.
- Resolve barriers to compliance.
- Determine if the individual wishes to comply with the PRP.

Document the eligibility and case management system to explain:

- When the contact was made or attempted.
- What reason the individual gave for non-compliance.
- What actions were taken to resolve any barriers to participation that may have arisen.

The purpose of conciliation is to determine:

- The reason for non-compliance.
- If the individual is now exempt.
- If the individual has an inappropriate activity assignment.
- If the non-compliant individual wishes to comply.

GOOD CAUSE

Good cause for non-compliance may be established when:

- The client is not physically/mentally able to perform the work.
- The supportive service needed for the individual to engage in the work activity is not available, i.e., child care, transportation, for example.
- The client's health or safety is at risk.
- The client or client's child is/was sick or hospitalized.
- The client is actively seeking shelter from domestic violence or abuse, such as someone residing in a domestic violence shelter, or fleeing from immediate harm.
- The client is currently experiencing or had some temporary emergency.
- The client meets a work requirement exemption.
- Other factors clearly beyond the control of the client.

Good cause reasons should be evaluated to determine if the individual is now exempt, either permanently or temporarily from the work activity requirement of the PRP. Always evaluate the situation, use prudent judgment, and consult with the recipient, to determine if the recipient understands:

- His/her commitment to comply with the PRP.
- Whether he/she has been granted good cause and why.
- That the work requirement will resume if/when the exemption ends.

COMPLIANCE

If it is determined that the individual does not have good cause for non-compliance, the individual will have to participate 5 days at a 100% participation level to "cure" the sanction. If the individual fails to comply (without good cause) during the 5-day compliance period, the case will remain closed. If the individual has good cause for non-compliance, the participant will not have to start the entire 5-day compliance period over. He/she will have to make up the missed time so that the total time served equals 5 days.

If the individual agrees to an FSC assessment, the 5-day compliance period will not be required until after the assessment has been completed. **(Bulletin 29, FA-08-21)**

Two-parent AUs:

- When both parents in a **two-parent AU** have been sanctioned, both must comply before anyone in the household can be eligible for any Families First category (ADCI, ADCU, ADCR), unless either parent becomes exempt. **NOTE**: This only applies to two-parent AUs that have a child in common.
- In his children/her children situations where each parent could potentially be eligible for a separate grant, only the sanctioned parent who is applying for benefits must comply.

5-day compliance during the application period:

- Failure to comply
  - If an individual who has completed a 5-day cure for a sanction stops participating in the activity prior to approval, there is no sanction for his action. The individual should be encouraged to comply in the interim period, but must return to the activity within 5 days of approval. If the individual is not eligible and not approved after curing the sanction, the caseworker/client rep must ensure that the sanction cure is documented.
  - If the Department did not allow time for the client to complete the 5-day compliance period during the 45-day application processing time frame, approve the AU on the 45th day and base the 100% activity attendance on the time the client was able to participate prior to approval.
  - If the participant failed to complete the 5-day compliance period during the 45-day processing time frame due to a good cause reason (illness, for instance), issue interim benefits and request that the client complete the 5-day compliance period.

- Employment during compliance

  - Employment does not "cure" a sanction for a work-related activity. If the **individual gets a 30 hour per week job during the 5-day compliance period**, require that the
  - remainder of the **5-day** compliance period be completed in employment. If the job is less than 30 hours, the sanction must be cured by participating in a combination of employment and other activities that total 30 hours for the remainder of the 5-day compliance period.
  - If an individual gets a job during the compliance period, and loses it through no fault of his/her own before the compliance period is up, require that the participant comply in a new activity for the remainder of the **5-day** period.

VERIFICATION

The caseworker/client rep must determine that the individual has not complied with the work or work related activity. Verification may be established through the FF work activity contractor, the recipient's statement, or other information from a source in a position to know.

DOCUMENTATION

- Document the eligibility and case management system to show the date the Department became aware of the non-compliance.

- Document the eligibility and case management system to show the date the adverse action notice was sent.

- Document the eligibility and case management system to show clear explanation of the conciliation outcomes and any good cause findings.

PROCEDURES

- Attempt to contact the client personally (by phone) following case closure.

- Schedule a conciliation conference if the individual responds during the adverse action period. This conference can be either in person or by phone.

- Explore good cause for non-compliance during the conciliation conference.

- Determine if the individual should re-enter the activity if there is no good cause. Monitor the activity for compliance over the next 5 day period.

- The case will remain closed if the individual does not have good cause and/or does not wish to comply.

- The case will remain closed if the individual does not respond during the adverse action period.

- Document the sanction in the eligibility and case management system.

- Give 18 months of Transitional Child Care (TCC). (See the Child Care chapter for more details.)

VOLUNTARY TERMINATION OF EMPLOYMENT (VOLUNTARY QUIT):

POLICY STATEMENT

- Voluntarily quitting a job without good cause by an eligible adult in a Families First AU will result in ineligibility of the AU until compliance.

- The voluntary quit provision applies to applicants and recipients.

- The voluntary quit provision applies to both full and part-time employment.

- A Families First AU with an adult member who voluntarily quits a job without good cause two months prior to applying for assistance or during the application processing months will be ineligible until compliance.

- A Families First AU that is receiving benefits and has an eligible adult member who voluntarily quits a job without good cause will be ineligible until compliance.

  NOTE: This policy also applies to EAs who have been disqualified.

- An individual who voluntarily quits a job without good cause, and leaves one Families First assistance unit and joins another Families First assistance unit as an eligible adult, will cause the new assistance unit to be ineligible until the individual complies. The sanction will no longer apply to the AU with whom the individual previously resided.

EXCEPTIONS

The voluntary quit provision does not apply when:

- The individual who quit is an ineligible (NA) member of the AU.

- The individual is exempt from a work requirement according to the work exemptions listed in the Work Requirements Chapter.

- The individual is a minor.

GOOD CAUSE

Good cause for voluntarily quitting employment may include:

- Acceptance of employment with at least comparable gross wages.

- Pay less than the minimum wage based on the number of hours actually worked.

- Leaving the job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm workers.

- Leaving employment to attend an educational or training program full-time (as defined by the institution) that is consistent with allowable Personal Responsibility Plan work activities.

NOTE: Leaving employment for the purpose of applying for Families First and entering a training program through FF is not good cause.

- Unavailability of transportation and substitute arrangements could not be made (evidence of efforts to arrange transportation will be required).

- Unavailability of child care and neither the individual nor DHS could find substitute child care arrangements.

- The employer's failure to grant Family Medical Leave Act provisions for the birth of a child.

- A medically approved incapacity, including complications from pregnancy that render the individual unable to work.

COMPLIANCE

Apply the same compliance policy as that for curing non-compliance with a work requirement. The individual may comply for 5 days in any acceptable work activity or new employment.

VERIFICATION

The following information must be verified for voluntary quit:

- The date of the voluntary quit.

- The good cause reason for quitting.

DOCUMENTATION

- Document the eligibility and case management system with:

  - The circumstances of the voluntary quit.
  - The attempt(s) after closure to contact the individual to discuss good cause and the outcome of the attempt(s).
  - Any good cause reasons claimed by the individual.
  - The outcome of the good cause evaluation.

- Document the eligibility and case management system, if the AU is sanctioned.

PROCEDURES

- When the client reports a voluntary quit, close the case within 3 business days of learning of the voluntary quit.

- Follow the sanction/conciliation process described for work requirements.

CHILD SUPPORT COOPERATION:

POLICY STATEMENT

The Families First AU must cooperate with Child Support Services. Cooperation includes:

- Identifying the absent parent.
- Establishing paternity, if necessary.
- Assisting in the location of the absent parent.
- Pursuing court-ordered child support for each AU child.
- Agreeing to assign all child support, either court ordered or voluntary, past and future, to the Department of Human Services to reimburse the state for Families First benefits that the AU receives. Any spousal support that was ordered at the time of the child support order must also be assigned to the state.

Failure to cooperate with any of the child support requirements, without good cause, will result in a sanction of ineligibility for the entire AU. The sanction will continue until the caretaker agrees to cooperate. The sanction will be considered "cured" when the client does one of the following:

- Complies with the Child Support request.
- Agrees to comply if the action can be taken immediately (verification of compliance must be provided within 10 days.) (Bulletin 28, FA-08-20)
- Agrees to comply in the future if the action cannot be taken until a later date (court hearing, for example.

Therefore, if the participant contacts DHS within ten days of the Child Support sanction closure notice and agrees to comply, reopen the case based on the participant's intent.

- NOTE: If the case is reopened because the client states that he/she will cooperate with Child Support, but fails to comply or does not provide verification that he/she is cooperating within ten days, proceed with the previous sanction. This procedure should be followed when the client contacts DHS within ten days of the Child Support Sanction or re-applies at any time after adverse action. (Bulletin 28, FA-08-20) This could happen quite some time after the first closure notice depending on what the participant had failed to do.

If compliance is dependent on a future date, the case will be reopened and the client will be allowed additional time to comply.

When the client contacts DHS after the ten-day adverse action period, a new application will be required, the case will be reopened and the client will provide verification of compliance within ten days if immediate action can be taken or on the future date compliance can be met.
If he/she does not comply on that future date, the case will be closed. (Bulletin 28, FA-08-20)

For example: The client does not go to court and her case is sanctioned. She contacts DHS within 10 days and says that she will go. The case is reopened based on the participant's intent. However, when the next court date is scheduled a month later, the client fails to go again. At that point, proceed with the previous sanction, following the prescribed closure process.

EXCEPTIONS

All Families First caretakers who are requesting assistance based on absence must cooperate with Child Support Services, unless good cause is claimed.

Failure of a minor parent, who is a child in her parent's AU, will not result in a sanction to the AU, but the caseworker/client rep should work with the caretaker and the minor parent to overcome the non-cooperation. The fiscal and social advantages of cooperation with Child Support should be explained. A minor parent who is the caretaker of her own AU and who fails or refuses to cooperate, will have an AU sanction, unless good cause is granted.

GOOD CAUSE

The caretaker must agree to:

- Assign all child support to the State.
- Cooperate with CS in gathering information about the absent parent for the purpose of pursuing child support.

There is **no good cause for failure** of the caretaker **to assign** to the State **all child support** received by any member of the AU.

However, **there is good cause for failure or refusal to cooperate with other child support requirements**. These good cause reasons are defined in the Child Support Cooperation chapter.

VERIFICATION

A claim of good cause for failure or refusal to cooperate with a child support requirement must be accompanied by proof of the good cause.

Acceptable documents of proof are defined in the Child Support Cooperation chapter. The caseworker should not limit the verifications if the applicant/recipient can produce other acceptable forms of verification to substantiate a good cause claim.

DOCUMENTATION

The child support absent parent screen in the eligibility and case management system must clearly indicate that the caretaker is cooperating or not cooperating. If good cause is claimed, the

screen must indicate whether or not good cause has been granted. The eligibility and case management system should also be documented to indicate that good cause was claimed, whether or not it was granted, and the reason for a particular conclusion.

PROCEDURES

- Deny the application if an applicant refuses to assign his/her rights to child support.
- When the caseworker provides an explanation of the responsibilities to cooperate with child support, it is assumed that the caretaker will cooperate with Child Support. Pursue good cause if the applicant acknowledges at the application that he/she will not cooperate with Child Support requirements.
- Approve the case if it is determined that the applicant has good cause.
- Deny the case if it is determined that the applicant does not have good cause and the applicant continues to refuse to cooperate.
- The caretaker may re-apply at any time, but must agree to cooperate to be determined eligible.
- Make a good cause determination for a waiver of the child support cooperation requirement if the Child Support Office reports that the caretaker in an active AU is refusing to cooperate and they have determined that there are no extenuating circumstances that caused the problem. (See the Child Support Cooperation Chapter for further discussion.)
- Continue eligibility if good cause is granted.
- Close the case the first month following the end of the Notice of Adverse Action period if good cause is not granted.
- The AU will remain ineligible until the AU reapplies and agrees to comply.
- The AU will not receive Transitional Child Care when closed for failure to cooperate with child support.

FAILURE OF A MINOR PARENT TO ATTEND SCHOOL:

POLICY STATEMENT

A minor parent under the age of 18, with a child over the age of 16 weeks, who does not have a high school diploma or equivalent, must stay in school or an alternative education/training program during the school year. Alternatives could be home study approved by the school system, GED classes, or other education programs approved by the Department.

A minor parent who does not meet the above requirement, does not have good cause**,** and who is an eligible child in an AU will be sanctioned by having his/her needs removed from the AU budget**.** Income and resources of the excluded minor parent are considered available to the AU.

A minor parent EA of his/her own AU who does not meet the above requirement or the alternate option of a 30-hour work activity and does not have good cause**,** will be sanctioned by having his/her case closed.

NOTE: A minor who is pregnant is not considered to be a parent for policy purposes until the child is born.

Conciliation:

The caseworker/client rep should attempt a conciliation conference with the minor and the caretaker of the AU (if different) during the adverse action period. The conference can be with the caseworker/client rep or the caseworker/client rep's supervisor. The purpose of the conciliation conference is to determine:

- The reason for non-compliance.
- If the minor has good cause for non-compliance.
- If the minor who is in non-compliance wishes to comply.

Failure to respond during the adverse period will result in a continuation of benefit reduction for the "eligible child" minor, or in continued ineligibility for the "eligible adult" minor who is caretaker of his/her own case.

EXCEPTIONS

A sanction is applicable unless the minor has good cause.

GOOD CAUSE

Good Cause for failure to attend school or an alternate educational or training activity will be granted when:

- The minor parent has a verified physical or mental medical reason that prevents attendance in an educational or training activity.
- The minor parent's child has a verified illness that requires the presence of the minor parent to care for the child.
- The supportive services, such as child care, are not available and the Department cannot make them available.
- The child of a minor parent is less than 16 weeks of age.
- The minor parent is participating in a drug or alcohol counseling program that prohibits his/her participation in school or other educational activities.
- The minor parent has a documented emergency or catastrophe that is sufficient to interrupt school attendance or educational/training activity. Work with the caretaker and/or the minor

parent to ensure that the minor re-enters school or the educational/training activity as soon as possible

Compliance:

Apply the same compliance policy as that for curing non-compliance with a work requirement.

VERIFICATION

- Verify that the minor is engaged in the activity.
- If the minor is participating in another educational or training activity, investigate the activity to determine if it qualifies as a substitute for school attendance.
- If the minor is not participating in an approved educational activity and is a caretaker of his/her own case, verify that he/she is in a 30-hour approved activity.
- Verify good cause if it is claimed for failure to participate in school or other approved educational or training activity.
- Verify compliance if the minor agrees to comply.

DOCUMENTATION

Document:

- The minor's participation or failure to participate in school, educational activity or a training activity.
- The alternate activity if not in school and how the activity qualifies as a substitute for school attendance.
- The results of the conciliation conference or the failure to respond to the request for conciliation.
- The minor's agreement to comply and the compliance completion after 5 days.
- The claim of good cause and whether or not good cause was granted.

PROCEDURES

- Verify school attendance.
- Determine if the minor is in an alternate educational or training program or if a minor caretaker is in a 30-hour week optional activity.
- Determine if the alternate activity satisfies the requirement.

- Remove the minor's needs from the AU (or close the case if the minor is the caretaker) if the minor is not in school and does not have an approved alternate activity.
- Determine if good cause exists if the AU responds during the adverse action period.
- Add the minor's needs back to the AU or reopen the case if the minor makes contact during the adverse action period and good cause exists.
- Determine if the minor is willing to comply if good cause does not exist.
- Monitor the compliance for 5 days to determine if compliance is being met if the minor is willing to comply.
- Add the minor's needs back to the AU or reopen the case if compliance is met.
- If good cause does not exist and the minor is not willing to comply or does not comply during the 5-day compliance period, the benefits will remain reduced or the case will remain closed.
- Work with the AU to encourage the minor to attend school and to provide the supportive services necessary for the minor to attend school.

FAILURE OF OTHER AU CHILDREN TO ATTEND SCHOOL:

POLICY STATEMENT

Assistance unit children (and SSI children) must attend school, unless good cause is established (see the previous section for a discussion about minor parents).

Failure of any or all AU children to attend school, without good cause, will result in a 20% sanction to the AU cash payment. The sanction will remain in effect until the AU is in compliance with the school attendance requirements. The budget will have the 20% reduction removed the first possible month following compliance.

If other sanctions are imposed on the AU at the time the 20% sanction is imposed, the 20% sanction will be applied to the net grant payment. For example, if the AU has an IPV disqualification or a minor parent sanction, the school attendance sanction will be applied to the net grant after the other disqualifications or sanctions. If the AU also has a 20% sanction for immunizations/health check, the AU will have two separate reductions, or 40%, from the net grant.

EXCEPTIONS

Sanctions will be applied to all AUs that have school age children who are not attending school and do not have good cause.

GOOD CAUSE

The good cause reasons for failure to attend school are listed in the School Attendance chapter.

VERIFICATION

If it is determined by the caseworker that a school age AU child is not in school, it is the responsibility of the caretaker to verify school attendance or good cause for failure to attend school.

DOCUMENTATION

Document:

- The reason the caretaker states the child is not in school.
- Whether or not good cause is claimed or granted, the reason for the decision regarding good cause.
- The month compliance with school attendance is met.

PROCEDURES

- When information is received that a school age child is no longer in school, contact the caretaker to determine if the information is correct or if there is good cause for failure to meet school attendance requirements**. A formal conciliation is not required in this instance.**
- Do not reduce the grant if the caretaker provides supporting information within 10 days to establish good cause.
- Initiate a reduction in benefits and send the Notice of Adverse Action if the caretaker cannot be contacted or does not provide proof of good cause.
- Reduce the grant the first month following the month of adverse action.
- Remove the 20% sanction from the budget calculation the first possible month following compliance if/when school attendance is met. This would be the next month for all changes made prior to recurring month processing and the second subsequent month for all changes made after recurring month processing. If the compliance is verified before the recurring processing and the grant amount has not been recalculated, issue an auxiliary payment for the month(s) the cash payment is in error.

FAILURE TO HAVE IMMUNIZATIONS AND/OR HEALTH CHECKS:

POLICY STATEMENT

Children in Families First AUs (including SSI children) are required to have immunizations and health checks unless there is a good cause reason not to have them.

An AU that fails to meet this requirement for one child or all children in the AU and does not have good cause will have a 20% sanction applied to the assistance unit cash payment. The 20% sanction will apply when the AU fails to comply with either or both the immunizations and health check requirements. The sanction will remain in effect until the AU is in compliance with the immunization and health check requirements. The budget will have the 20% reduction removed the first possible month following compliance with the requirements.

If other sanctions are imposed on the AU at the same time the 20% sanction for immunization and health checks is imposed, the 20% sanction will be applied to the net grant payment. For example, if the AU has an IPV disqualification or a minor parent sanction, the immunization and health check sanction will be applied to the net grant after the other disqualifications or sanctions are applied. If the AU also has a 20% sanction for failure to comply with the school attendance requirement, as well as a 20% immunization/health check sanction, the AU will have two separate sanctions, or 40%, reduced from the net grant.

EXCEPTIONS

Sanctions will be applied to all AUs that have children who are not immunized and are not getting health checks and do not have good cause.

GOOD CAUSE

The good cause reasons for failing to have immunizations and health checks are discussed in the Immunizations and Health Checks chapter.

VERIFICATION

It is the responsibility of the caretaker to verify immunizations and health checks or good cause for failure to have children immunized and given health checks.

DOCUMENTATION

Document:

- The attempt(s) to reach the caretaker to discuss non-compliance.
- The reason the caretaker did not have the child(ren) immunized or given health checks.
- Whether or not good cause is claimed, the decision on that claim, the reason for the decision.
- The month compliance with the immunization and health requirement is met.

PROCEDURES

- When it is determined that a child is not receiving immunizations or health checks, contact the caretaker to determine if the information is correct or if there is good cause for failure to meet the immunization and health check requirements. **A formal conciliation conference is not required.**

- If the caretaker provides supporting information to establish good cause within 10 days, do not reduce the grant.

- If unable to contact the caretaker or if the caretaker does not provide proof of good cause, take action to reduce the cash grant and notify the AU of the adverse action.

- Reduce the grant the first month following the month of the adverse action.

- If the immunization and health check requirement is later met, remove the 20% sanction from the grant calculation the first possible month following compliance. This is the next month for all changes made prior to recurring month processing and the second subsequent month for all changes made after recurring month processing. If the compliance is verified before the recurring processing and the grant amount has not been recalculated, issue an auxiliary payment for the month(s) the cash payment is in error.

FAMILIES FIRST SANCTIONS DESK GUIDE

Sanction	Type of Sanction	First Occurrence	Conciliation
Work	Total AU Ineligibility	Until Compliance	Yes
Voluntary Quit	Total AU Ineligibility	Until Compliance (or individual causing the sanction leaves the AU)	Yes
School Attendance for Eligible Children Who are Minor Parents	Remove needs of minor parent from AU	Until Compliance	Yes
School Attendance for Minor Parents Who are Caretakers of Their Own AUs	Total AU Ineligibility	Until Compliance	Yes
School Attendance - Other AU Children	20% Reduction in Assistance Payment	Until Compliance	No
Immunizations and Health Checks	20% Reduction in Assistance Payment	Until Compliance	No

GENERAL ADMINISTRATIVE PROCEDURES

POLICY STATEMENT

Case Record Management:

All Families First cases are maintained in an electronic file.

- The paper application that is signed by the applicant/recipient is maintained in the county office in an alphabetical file by month of application or renewal. These forms must be maintained in a manner that allows them to be retrieved as necessary.

- The Families First assistance unit is a part of the case file for all of the members of a common residence group. There may be multiple assistance units in a single case. The application or reapplication for assistance is completed on a single one-page application form for all types of assistance- Families First, Food Stamps, and Medicaid for all members of the common residence group.

- Case numbers and individual recipient ID numbers are assigned by the eligibility and case management system.

- The case number contains a 10 digit number that is a common number for the residence group. The case number will also have a 4 digit alpha category type which defines the type of assistance for which the assistance unit potentially qualifies. The case number also contains a 2 digit sequence number that identifies the assistance unit when there is more than one of that category contained in the case file.

- Case records will maintain their case number as long as the case is in active or historical status on the eligibility and case management system. When a closed case reapplies, the old case number should be selected to reopen an application. Individuals that leave an existing case and apply in their own right will have a new case number assigned, but will retain their existing recipient identification number.

Content of the Case Record:

- The application and renewal interviews are conducted in an on-line interactive process. If the system is not available or if the interview must be conducted in a remote site where the system is not available, the interview shall be recorded on a paper application and shall immediately be entered in the eligibility and case management system upon return to the office.

- The date of the application/renewal will always be the date the signed and dated application form is received in the county office or if the interview is conducted in a remote sight and the form is provided at this time, the date will be the date the caseworker receives the form. The application date is entered in the eligibility and case management system and is used to track the case for the timeliness and establish the start date of benefits.

- The electronic file will contain responses to all interview questions.

- The file will contain verifications of all eligibility activities. The verification will be entered on the appropriate screen using the appropriate code to describe the source of the verification. The date of the information is recorded on the screen and the system date will reflect the date the information is entered.

- Comments, additional verification information, and any other pertinent information to the eligibility of the case will be recorded on the running record comment screen. It is not necessary to document additional information about every piece of information where a code is used to verify information, but should be used to provide details of the verification that may be unclear otherwise. When recording information in the eligibility and case management system, the caseworker/client rep should always indicate his/her name on the recording.

- Verification that is provided by the application/recipient or secured by the caseworker should be recorded in the eligibility and case management system and should be returned to the applicant/recipient or destroyed as appropriate.

- The caseworker/client rep may request the expected change screen to remind her/him of potential changes that may occur in a case.

- The eligibility and case management system will issue alerts to the caseworker/client rep on the case when an action is needed to update the file or review certain information.

Security of Eligibility and Case Management System Case Files:

- All individuals requesting access to the eligibility and case management system must have a RCAF number and must complete an eligibility and case management system enrollment form. Upon appropriate authorization, the individual will be given access to the eligibility and case management system. The individual's security profile will define the type of access (update or inquiry) and the screen's that may be accessed.

- The access to the eligibility and case management system in the county office is approved by the Area Manager or the district office. Access at the state level is approved in the State Office by the Program Director or Assistant Commissioner. The Security Coordinator (in the county office, known as the AAA) sets the security profile.

- The caseloads in the eligibility and case management system have a primary caseworker and there may be a total of 5 caseworkers (EC profile) that are attached to a case. This profile will permit inquiry and update. The county and district supervisor will have inquiry and update access to the cases that are managed by the caseworkers that are in their administrative structure.

- Security must be maintained at all times. Staff must never share their system sign-on password and must sign-off of the system when away from their work station.

Confidentiality of Case Record Information:

The Department of Human Services in Tennessee, in accordance with the laws of this State and the Federal statutes pertaining to this subject, has adopted the policy of maintaining the confidential nature of Family Assistance, including Families First, information. The confidentiality objectives are:

- To develop a relationship of confidence between the Department and the applicant/recipient.
- To define and protect the right of applicants and recipients by safeguards which prevent their identification as a special group; their exploitation for commercial, personal, or political reasons; and which prevent information to be made available solely as a basis for prosecution and other proceedings except as directed by General Counsel.
- To provide a basis for recognition by the Court of the right of the Department to protect its records.
- To develop a relationship of confidence between the Department and the public at large by protecting information made available to the Department by representatives of the public and by utilizing such information only for the purpose of the proper functioning of the Department's programs.

Information Considered Confidential:

- Case record information.
- Lists of Families First recipients.
- Reports of investigations and medical investigations.
- Information contained on applications and in the electronic file.
- Names and addresses of Families First recipients and all other information known to the agency in connection with Family Assistance and other services.

Exceptions to Confidentiality:

- Release to law enforcement officials to assist in prosecuting fraud against the Department or child abuse.
- Release to appropriate agencies assisting in collection of child support in the Families First program.
- Release to service providers, such as mental health professionals, providing services to abusive or neglectful parents.
- Release to contracting agencies working with the Department who are providing Families First work services.
- Release to the child's guardian ad litem in child custody and guardianship cases.

- Release disbursement reports, total expenditures of funds, number of recipients and other statistical information, social data, and reports on surveys; (Disbursement reports cannot be copied).

- Release to agencies where the information operates to the welfare of the individual and will not be used for embarrassment or exploitation and the agency assures that confidentiality will be protected and gives assurance that the information will be used only for the purposes it was requested.

- Information may be released to appropriate law enforcement officials as may be needed in the apprehension and/or conviction of a felon. (This information will not be released to process servers or for civil reasons).

- Information that is requested through a valid subpoena or court order will be provided. The court will be asked to limit the scope of discovery if it appears that this gives the attorney an opportunity to review information that is not part of the intended request.

- Release to the applicant or recipient.

Release of Information to the Applicant/Recipient or his/her Representative:

- The client or representative can request information be printed from his/her eligibility and case management system record. A charge of 10 cents per page may be made except when being secured for a fair hearing.

- Upon proof that an attorney has been secured by the client, the attorney or an authorized non-lawyer employee will have access to examine, request print, or copy information in the file. The file should be documented by the caseworker when this occurs.

- If a client or representative is viewing the record on-line, the caseworker must be present.

- Information considered "Confidential" by the provider and potentially damaging to the client should be provided after DHS informs the individual or his/her attorney that it is inadvisable and the individual or attorney continues to request access to the information.

Applications by Department Employees and Their Relatives:

- The FS 1, Area Manager, the District Family Assistance Director, or the District Administrative Director must be made aware as appropriate of applications, renewals, or changes to assistance units containing an employee or a relative of an employee.

- Applications made by an employee or a relative of an employee of the Department should be processed by a county or district supervisor.

- The case should be maintained in a "Confidential Caseload" in the eligibility and case management system.

- The county office should maintain a plan to ensure that confidential procedures are followed for employee and relative applications, reapplications, and changes.

RIGHT TO APPLY FOR FAMILIES FIRST

POLICY STATEMENT

- Any person wishing to do so shall have the opportunity to apply for Families First.
- Information about the Families First program administered by the Department of Human Services shall be provided to any person requesting it.
- Applications may be submitted in person, by mail, by FAX, or on-line to the DHS Office in the county of the applicant's residence and must be on a form prescribed by the agency. The application must be filed by the applicant, his/her authorized representative or designated agent, or someone acting responsibly for him/her.
- An applicant may be assisted by any individual of his choosing in the various aspects of the application/renewal of eligibility process. However, it is unlawful for any person/agency to charge or receive anything of value, either directly or indirectly, for providing such assistance to a person requesting Families First.
- Proof of eligibility is not required of a person prior to his filing an application.
- The right to file an application shall not be denied to any person even though it is apparent to the caseworker that eligibility for Families First benefits does not exist.
- The applicant (or designee) must complete an interactive interview with the caseworker whereby the application will be completed through on-line entry of information into the eligibility and case management system. In the event the eligibility and case management system is unavailable the information will be collected via a paper application and will be entered into the eligibility and case management system at a later time to complete the electronic case file.

RIGHTS AND RESPONSIBILITIES

POLICY STATEMENT

The Tennessee Department of Human Services, at all administrative levels, and their contract agencies, prohibit discrimination against any applicant, participant, employee or contractor in any program aspect for reasons of age, race, color, sex, disability, religious creed, national origin, or political belief.

Since the inception of the Families First program, the services provided by the Department of Human Services have expanded. The Department works with agencies in every part of the community in an effort to help our participants become self-sufficient. It is, in part, because of our extended reach that our responsibilities have increased. We are responsible for being familiar with the civil rights laws that ensure equal and fair treatment for our participants in every aspect of the Families First program and in those supporting programs that provide services to our participants.

Federal Non-discrimination Laws that Apply to TANF Programs:

- Federal laws that prohibit discrimination in federally funded programs apply to the Families First program and the actions of our contractors and service providers, just as they do other federally funded programs and their providers. An overview of the federal laws that prohibit discrimination in any federally funded program, including the Families First welfare program, is listed below.

  - **Title VI of the Civil Rights Act of 1964 –** prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other federal financial assistance.
  - **Title VII of the Civil Rights Act of 1964** – prohibits private, state, and local government employers with 15 or more employees and employment agencies from discriminating on the basis of race, color, sex (including pregnancy), religion, or national origin in all aspects of an employment relationship. This includes hiring, discharge, compensation, assignments, and other terms, conditions, and privileges of employment.
  - **Section 504 of the Rehabilitation Act of 1973** – prohibits discrimination on the basis of disability by employers and organizations that receive federal financial assistance.
  - **The Americans with Disabilities Act of 1990 (ADA)** – prohibits discrimination on the basis of disability by both public and private entities, whether or not they receive federal financial assistance.
  - **The Age Discrimination Act of 1975 (ADEA)** – prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
  - **Title IX of the Education Amendments of 1972** – prohibits discrimination on the basis of sex in educational programs and activities that receive or benefit from federal financial assistance.
  - **The Equal Pay Act (EPA)** – requires payment of equal wages to men and women performing substantially the same work unless the pay discrepancy is based on a seniority or merit system (a system that measures quantity or quality of production, or a factor other than sex). The EPA applies to employers of any size.
- Other related regulations include:

- **Titles VII and VIII of the Public Health Service Act –** prohibits sex discrimination in admissions to health-training programs.
- **Hill-Burton Community Service Assurance Act –** requires that hospitals or other health care facilities assisted under the Act provide services to persons residing in the community without discrimination based on race, color, national origin, or method of payment. Hill-Burton hospitals may not refuse emergency services because of a person's inability to pay.
- **Drug Abuse Office and Treatment Act of 1972 –** prohibits hospitals from refusing to admit or treat anyone needing emergency care solely because that person is dependent on or addicted to drugs.
- **Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 –** prohibits hospitals from discriminating in admissions or treatment against alcoholics solely because of alcohol abuse.
- **Multi-Ethnic Placement Act of 1994 (MEPA) –** prohibits placement of children for adoption and foster care on the basis of race.

Coverage by Federal Non-discrimination Laws:

- The **non-discrimination statutes** listed above prohibit discrimination on the basis of race, color, national origin, age, and disability in programs or activities that receive or benefit from federal financial assistance. These same statutes prohibit discrimination on the basis of sex in education and training programs that receive federal assistance. Discrimination on the basis of disability is prohibited in all programs, services, or activities of public entities. ADA (Americans with Disabilities Act) coverage does not depend on the receipt of federal funds.

- The **employment discrimination statutes** prohibit discrimination on the basis of race, color, religion, national origin, citizenship status, and unfair documentary practices regarding employment verification, sex, age, and disability in private and public-sector employment. Depending on the circumstances, the Department may be subject to coverage under both the nondiscrimination statutes and the employment discrimination statutes.

  These laws apply to:

  - State agencies that receive federal money through a block grant to conduct welfare programs.
  - County and city agencies that assist in job training as part of a welfare program.
  - Private contractors and service providers that help welfare participants find jobs or training.
  - County offices that determine eligibility for Food Stamps.
  - Offices that operate federally funded child nutrition programs (for example, National School Lunch Program and the Women, Infants and Children program).
  - State agencies that refer welfare recipients to businesses or public agencies for employment.
  - Private contractors and businesses that contract with the state to provide job referral services for welfare participants.

Discriminatory Conduct on the Basis of Handicap/Disability That Is Prohibited in Programs and Services:

- **DHS may not discriminate against any qualified individual with a disability in providing services or administering any program or activity, whether or not the program receives federal financial assistance**. In general, an individual with a disability is "qualified" if that person meets the essential eligibility requirements for receipt of services or participation in the program or activity. DHS may not refuse to allow a person with a disability to participate because the person has a disability. It may be necessary to make reasonable accommodations to allow participation. DHS may not harass a program participant or applicant based on a disability.

  Examples:

  - The director of a day care program which includes children of Families First participants who are attending employment training programs may not refuse to accept children who have emotional problems or who take medication for their disabilities.
  - Families First recipients with disabilities may not be prohibited from work activities, education, or training opportunities based on assumptions that such individuals are not qualified to participate in training or work.
  - A community college offering job-training for Families First participants may not require students with disabilities to provide medical histories if such histories are not required of all students.

- DHS is required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.

  Examples:

  - Job-training courses for Families First participants must extend testing time when a person with a learning disability requests extra time to complete the test because of his/her disability. The course provider may ask the individual who is seeking extra time to provide reasonable documentation of the learning disability and the additional time that is required.
  - A Families First applicant with a mental disability who is unable to complete the application must be assisted.
  - If an individual with a disability, with or without reasonable accommodation, is unable to perform the essential functions of an available job, the Department should seek alternative solutions. As appropriate, the work activity contractor may intervene with an employer to determine if specific job functions are essential and what, if any, accommodations can be made to assist the client. (Bulletin 33, FA-07-14)

- DHS must ensure that programs and services are provided in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity for individuals with disabilities. Programs that provide special benefits to people with disabilities are permitted, but people with disabilities cannot be compelled to participate in those programs.

  Examples:

- A county DHS office may offer an alternate site for an eligibility interview at the Community Mental Health Center for those with mental disabilities. However, the office may not require people with mental disabilities to go to an alternate site for interviews.
- A county DHS office may not require people with HIV to be served in a separate room from the other participants.
- A county vocational training program may offer special training opportunities for people with vision impairments. However, it may not require people with impairments to participate in a special program or refuse to permit them to participate in courses open to other program participants.

- DHS must ensure effective communication with individuals who have hearing, speech, or vision impairments. Programs must provide auxiliary aids and services when necessary to ensure effective communication for program purposes. However, they are not required to provide auxiliary aids that will result in undue financial and administrative burdens on the agency. Any questions regarding the potential burdens that may result from the provision of such aids must be referred to the State Office. (Bulletin 33, FA-07-14) Examples of auxiliary aids are Braille materials, sign language interpreters, readers, or text telephones (TTYs).

  Examples:

  - A job placement program that makes information about job openings available by telephone must ensure that the information is available to users of TTYs.
  - Printed information for applicants/participants about welfare eligibility requirements must also be provided on audiotape or in Braille for people who have vision impairments, or materials must be read to them.
  - Job training programs for Families First participants must provide sign language interpreters for deaf students when it is necessary to ensure effective communication for those students.

- DHS may not exclude individuals with disabilities from programs and activities because buildings are inaccessible. However, the providers are not required to take any action that would result in the fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. This means that providers need not remove physical barriers, such as stairs in existing buildings, as long as the programs are made accessible to individuals with disabilities in other locations or through other methods.

  Examples:

  - A DHS office that is located on the second floor of a building that has no elevator may make its services available to an applicant who uses a wheelchair by meeting with that applicant in an accessible ground floor office.
  - A job-training program that usually offers classes in an inaccessible second-floor classroom may make its program accessible by relocating the class to an accessible classroom in another building.

An applicant with a physical disability who cannot be accommodated at the county office must be offered an alternative to the office interview that will accommodate his/her needs and, at the same time, satisfy program requirements.

County Office Accommodations Procedures:

Written procedures must be in place in each county to ensure that all staff directly serving clients are aware of how to arrange for accommodations and know who must be consulted to make these arrangements. The procedures must instruct staff and Families First contractors to review the case record for information regarding a disability prior to making a reasonable accommodation decision.

Who is considered a Disabled Person Pursuant to the ADA?

All applicants and recipients who meet the ADA definition of "individual with a disability," are entitled to reasonable accommodations if they need them. The applicant/recipient need not meet the "incapacity" definition, or qualify for, or receive, disability benefits to be considered in need of reasonable accommodations.

The ADA defines "disability" to mean a person with one or more physical or mental impairments that substantially limit a major life activity. Physical or mental impairments include, but are not limited to:

- Mobility impairments
- Diabetes
- Cancer
- Heart Disease
- Asthma
- HIV
- Clinical depression
- Bi-polar disorder
- Schizophrenia
- Learning disabilities (including dyslexia)

Major life activities include, but are not limited to:

- Walking
- Doing manual tasks
- Speaking
- Hearing
- Seeing
- Lifting
- Breathing
- Learning
- Taking care of oneself
- Interacting with others
- Standing
- Working

ADA Requirements and Their Application to Families First Accommodations:

The Americans with Disabilities Act (ADA) requires state TANF agencies to adopt methods for administering TANF programs, like Families First, that ensure equal opportunity for persons with disabilities in all aspects of the program. These methods must ensure that individuals with disabilities are afforded:

- The opportunity to benefit from TANF programs as effectively as the opportunities the TANF agency affords to individuals who do not have disabilities.
- "Meaningful access" to TANF programs.

In addition, TANF agencies are required to make reasonable accommodations when necessary to avoid discrimination on the basis of disability.

Requesting Reasonable Accommodations:

An applicant/recipient can not be expected to use the words "reasonable accommodation" or "ADA" to be entitled to an accommodation. Any statement or request that help is needed for a disability should prompt DHS staff and work activity contractors to explore the possibility that an accommodation may be needed.

Families First Reasonable Accommodations Requirements:

The Families First program and Families First work activity contractors must make a range of reasonable accommodations for clients with disabilities and/or those caring for family members with disabilities. Providing accommodations is the most effective way to prevent non-compliance with program requirements. DHS and its contractors are required to provide reasonable accommodations to applicants/recipients with a disability to ensure that they have equal access to benefits and services. **"Reasonable accommodation" is defined as any reasonable change made in the way the Families First Program policies or program participation guidelines are applied to individual clients.**

Some clients who have a disability or who have a family member with a disability may not need an ongoing accommodation to participate in the program upon entering the program, but can instead be granted good cause during participation in the program, as needed, because of their inability to participate due to compelling circumstances. In addition to granting "good cause" to clients who are unable to comply with program requirements, DHS will provide an initial screening to all applicants and a secondary screening to clients with a work requirement or who wish to volunteer. These screenings have been put in place to identify possible impairments and to evaluate a client's need for accommodations. The accommodations screenings will be done prior to assigning work activities to ensure that all recommended accommodations are considered.

- Reasonable accommodations can include, but are not limited to, the following accommodations in work activities:

  - Modifying existing facilities to make them accessible.
  - Acquiring or modifying equipment.
  - Providing readers or sign language interpreters.
  - Giving temporary or permanent exemptions from work activities.
  - Scheduling a work activity to accommodate an individual's need for medical, mental health, substance abuse treatment, or rehabilitation.
  - Providing work activities with flexible hours.
  - Making other certain reasonable modifications to program requirements to ensure the disabled applicant/recipient's ability to have equal rights to the program's benefits.

- Reasonable accommodations can include, but are not limited to, the following accommodations in program requirements other than work activities:

  - Providing home and off-site visits, telephone interviews, and the right to use an authorized representative for clients who cannot attend face-to-face appointments.

- Helping clients to apply for benefits and to acquire documents to establish eligibility or verify the need for an accommodation.
- Providing notice verbally to those the agency knows will be unable to understand a written notice, through phone calls or personal visits.
- Scheduling appointments that do not conflict with known medical or mental health appointments.

- Reasonable accommodations include, but are not limited to, the following accommodations for clients who are not otherwise exempt, but who are caring for in-home family members with disabilities:

  - Providing a temporary exemption or delay in beginning work activities until specialized child care can be located. **(Bulletin 33, FA-07-14)**
  - Providing a work exemption for those clients who care for an in-home disabled relative. **(Bulletin 30, FA-08-22)**

Accommodations are designed and granted on a case-by-case basis to address special needs and to guarantee that every applicant/recipient has full access to the Families First Program. It is important to remember that there can be more than one reasonable accommodation and that the specific accommodation a client requests may not be the best one for his/her situation. In addition, accommodations must be reviewed by the caseworker at each renewal and by the client rep at each bi-monthly contact to ensure that the accommodation continues to be appropriate to the client's needs. **(Bulletin 33, FA-07-14)**

At each client contact, ensure that the individual has all the information and assistance from the Department that is needed to complete the application, interview, or other action before ending the conversation.

- Accommodations should be offered when:

  - The client requests accommodations based on a disability or impairment that will prevent access to our services.
  - The DHS staff member (caseworker, client rep, counselor, front desk staff, etc.) or contractor is concerned that the individual may not understand the application, verification, or renewal instructions, or other program requirements.
  - The DHS staff member is concerned that the individual may not complete the application or renewal without these accommodations.
  - The DHS staff member (caseworker, client rep, counselor, front desk staff, etc.) or contractor is concerned that the individual may not be able to perform a work requirement. **(Bulletin 33, FA-07-14)**
  - The program's policies dictate that a waiver from the office interview is appropriate.
  - Other circumstances or information lead DHS staff to think that accommodations are needed.

All clients must have access to our standard services. While accommodations must be offered to those in need of them, these specialized services are a client option, not a requirement.

Screening Clients to Identify ADA-Covered Disabilities:

DHS will ensure that all Families First applicants have the opportunity to successfully complete the application process and all applicants/recipients who have a work requirement, or who want to volunteer to participate in the program, have the opportunity to do so. Clients will be asked if they will agree to a screening to determine if any accommodations are needed. **Remember, the screenings are voluntary.**

The Voluntary Initial Screening:

During application interviews, both initial and renewal, every client will be asked:

- Do you need help with your application?
- If so, what kind of help will you need?
- Do you need help to give us the proof we need to finish your application?
- If so, what kind of help will you need?
- Do you have any physical or mental difficulties that will make it hard for you to take part in a work or training activity?
- If so, what kind of help will make taking part easier for you?
- Do you have a disabled family member living in your home who needs in-home care? **(Bulletin 30, FA-08-22)**

If the client indicates that he/she is unable to take part in activities even with help, the caseworker will ask one more question:

- If you cannot take part in the program, even with help, do you want to see if you can be exempt from the work requirement?

The above listed questions, with client answers, must be recorded in the case record. **(Bulletin 14, FA-08-10)**

If the individual indicates an interest in pursuing an exemption for him/herself or because of a disabled family member, the caseworker will begin the incapacity process or the process to determine the need for in-home relative care.

If the responses to the questions above indicate that the individual may need an accommodation to participate in a work activity, and the individual has a work requirement or wants to volunteer, further questioning regarding the need for accommodations will take place during the client rep's interview.

NOTE: If the questionnaire results in positive answers during a renewal that indicate the client rep needs to do a follow-up screening, the caseworker will document the case record and contact the client rep for a follow-up screening.

The Voluntary Secondary Screening:

Client reps will refer to the case record documentation for the results of the initial screening tool used at application. With the results of this screening in mind, the client rep will ask the client if

he/she would like to answer some additional questions to help determine if accommodations are needed for the client to effectively participate in the program. The prescribed screening tool poses questions affecting three areas:

- Learning disabilities
- Physical/Mental disabilities
- Disabilities of a family member

Client reps will complete the voluntary screening prior to the work activity contractor referral.

Both applicants with a work requirement and those who are exempt, but wish to volunteer, will be screened. In addition, the work activity contractor may request a screening for a current client if the client indicates the need for an accommodation. The work activity contractor may also request a subsequent screening for a current client at any time if the client indicates the need for an accommodation or if the client's circumstances have changed since the original meeting with the client rep. (Bulletin 14, FA-08-10) The client may request a screening at any time, as well.

Responses to the Screening Tool

- If the client's responses to the screening tool questions indicate the existence of a possible ADA-covered disability, the client does not express an inability to work that would warrant an MEU referral, the client does not want an FSC referral, the kind of accommodation needed is evident and easily provided, and the client agrees that the accommodation is appropriate, the county will: (Bulletin 14, FA-08-10)

  - Provide the accommodation.
  - Send the client an accommodation notice.
  - Document the following in the case record:

    - Kind of ADA-covered disability.
    - Accommodation requested.
    - Accommodation given.
    - Date accommodation notice sent.

  - Refer the client to a work activity contractor if he or she is not already in an activity.

- If the client's responses to the screening tool questions indicate the existence of a possible ADA-covered disability, ask the client if he/she would like a referral to Family Services Counseling. (Please refer to the Family Services Counseling Chapter for information regarding these procedures.)

- If the client's responses to the screening tool indicate a physical or mental limitation or difficulty that prevents them from participating in a work or training activity and the client states he/she is unable to work, complete a medical social narrative and refer to the MEU. The client will be exempt from a work activity until the MEU decision is complete.

- If the client states there is a family member living in the home that needs care, complete a Physician's Statement of Critical Need in the Home along with the medical/mental packet, and refer to the MEU for a decision. The client will be exempt from a work activity until the MEU decision is complete. (Bulletin 14, FA-08-10)

- If the client's responses to the screening tool questions indicate the existence of a possible disability, and the kind of accommodation needed is not evident or easily provided at the county office level, the county will attach the screening tool to an email with "ADA Accommodation Request" in the subject line, and send it to the State Office Accommodations Specialist for additional assessment.

- In the event that the client declines to be screened for disabilities, the case record should be thoroughly documented regarding the client's refusal. This refusal will not affect eligibility, but an accommodation cannot be provided unless a secondary screening has been completed.

Role of State Office in Determining Need for Accommodations:

As mentioned previously, any additional assessment needed following the client rep's screening will be conducted by the State Office Accommodations Specialist. The purpose of this assessment is twofold:

- To determine if, in fact, an ADA-covered disability exists.
- To determine what, if any, accommodation is needed for the individual to successfully participate in Families First.

Examples:

- A client is legally blind without a pair of glasses. The individual breaks her glasses. A reasonable accommodation for her to successfully participate in Families First would be for the contractor to purchase the individual a new pair of glasses.
- A client has asthma. The contractor has two placement options for the client to participate in community service, one which requires physical exertion that could aggravate the condition and another that does not. If the asthma cannot be adequately controlled by medication, the contractor should refer the client to the placement that does not require physical strain.
- See other examples of accommodations under the Families First Reasonable Accommodations Requirements heading in this chapter.

If the work activity contractor is unable to make a reasonable accommodation determination, they may request a screening by the client rep and review by the State Office. All requests for accommodations or determination of accommodations made by the contractor must be fully documented in the electronic case record and in the contractor's (Bulletin 33, FF-07-14) client record (see the ADA Verification/Documentation section).

The client will not have a work requirement (and therefore not be referred to the work activity contractor) while the State Office is conducting the additional assessment. The State Office Accommodations Specialist will have ten business days to complete the assessment and respond to the county office.

EXCEPTION: The client may volunteer to participate in activities during the assessment.

State Office Accommodations Decision:

Based on the additional assessment of the client's situation, the State Office Accommodations Specialist may determine that:

- Specific activities are inappropriate for the individual.
- Specific types of accommodations are needed in order for the individual to fully participate in the program. This can include "good cause" as an accommodation.
- An ADA-covered disability does not exist.
- Accommodations cannot reasonably be provided.
- A MEU incapacity (and TALS referral for SSI application assistance) or Voc Rehab evaluation is recommended.

NOTE: The specific types of accommodations referred to in the 2nd bullet above may include, but not be limited to, a different activity type that accommodates the individual's needs, a different activity site, or a specific support service or type of training. Accommodations will be determined on a case-by-case basis dependent upon the client's individual needs.

Following the assessment by the State Office, this information will be provided by email to the client representative on the lower portion of the screening tool.

The client representative will be responsible for notifying the work activity contractor of any required accommodations and for monitoring the contractor's compliance with the requested accommodations. If the client disagrees with the outcome of the additional assessment completed by the State Office, complaints should be submitted to:

Compliance Officer
Citizens Plaza Bldg. - 15th Floor
400 Deaderick Street
Nashville, TN 37243

NOTE: See the discussion under the "ADA Decision Notices to Clients" section.

The Families First Work Activity Contractor - ADA Responsibilities:

If the possible need for an accommodation does not become apparent prior to referral to the work activity contractor, the contractor's assessment process will ensure that appropriate services are provided for individuals with disabilities.

- The following are appropriate accommodations a contractor could provide:

  Examples:

  - A client is legally blind without a pair of glasses. The individual breaks her glasses. A reasonable accommodation for her to successfully participate in Families First would be for the contractor to purchase the individual a new pair of glasses.

- A client has asthma. The contractor has two placement options for the client to participate in community service, one which requires physical exertion that could aggravate the condition and another that does not. If the asthma cannot be adequately controlled by medication, the contractor should refer the client to the placement that does not require physical strain.
- See other examples of accommodations under the Families First Reasonable Accommodations Requirements heading in this chapter.

If the work activity contractor is unable to make a reasonable accommodation determination, they may request a screening by the client rep and review by the State Office. All requests for accommodations or determination of accommodations made by the contractor must be fully documented in the electronic case record and in the contractor's (Bulletin 33, FF-07-14) client record (see the ADA Verification/Documentation section). In addition, the client rep must be notified of all accommodation requests and their resolutions and must send an accommodation notice.

ADA Decision Notices to Clients:

When a client requests an accommodation or the Department or contractor recognizes that an accommodation is needed, the client must be notified that the request has been considered and given the details of the outcome by the caseworker, client rep or contractor to whom the accommodation request was made. The notice must include:

- The accommodation requested.
- Whether the request was approved or denied.
- The reason for the denial.
- Any alternative accommodations offered.
- The Compliance Officer's address.
- Instructions on the steps needed to make a complaint to the Compliance Officer.

When the accommodations decision is made by the State Office Accommodations Specialist, he/she will send the ADA Decision Notice to the client and notify the appropriate staff person of the decision via the screening tool as noted in the State Office Accommodations Decision section of this chapter.

ADA and Sanctions for Non-Compliance:

Though the Department has put many opportunities in place for the client to claim an ADA disability and for the staff and contractors to discover the existence of such disabilities, there still may be instances where a client is unable to comply with the program because of an ADA-related issue. Therefore, prior to imposing a sanction, the client rep will review the case record within three days of discovering a non-compliance, for any indication of a disability and contact the contractor to determine whether the client has experienced any difficulty with his/her activity due to a disability. If the non-compliance is the result of a disability, the client will be given

good cause for the non-compliance and the opportunity to comply. This review and the outcome must be documented in the case record.

- The following are examples of good cause:

  - A client has been diagnosed with a learning disability. He has been assessed by a specialist and has scheduled bi-weekly appointments with a learning therapist. Due to these appointments, he will be unable to fulfill the 30-hour weekly work requirement. The contractor will grant this client good cause for his absences due to therapy sessions.
  - Providing good cause when a parent quits employment due to the needs of his/her child.
  - Providing good cause if the needs of a disabled family member prevent the client from complying with a work activity.

In addition, when a sanction is imposed due to non-compliance with a work requirement, the following free-form text must be added to the client notice

"Do you or someone you live with have a mental, physical, or learning disability? If so, please call your client rep at _____. You may be able to keep your Families First benefits."

If the client responds to this notice within the ten day adverse action period and claims a disability, the client rep will re-open the case and complete a voluntary ADA screening. If the screening indicates a disability that may have affected the client's ability to perform the activity which is at issue, the client rep will:

- Give the client good cause for the non-compliance.

- Review the need for an accommodation (by the State Office, if necessary).

- Put an accommodation(s) put in place.

- Document the case record.

If the client fails to complete or refuses to complete the screening, the client rep will re-close the case for the previous closure reason. A final closure notice will be issued and the case will not be reopened until the client reapplies.

ADA Verification/Documentation:

When a client discloses a known disability that affects or may affect participation in work activities or compliance with other program requirements, DHS staff and contractors must ask the individual to submit any existing documentation of the disability, and its effect on his/her ability to function, to the agency/contractor. Caseworkers and client reps must keep in mind that it is a requirement to ask whether their clients need assistance in obtaining verification, and document that such inquiry was made. If the individual needs assistance in obtaining verification as a reasonable accommodation, assistance must be provided within reason. DHS staff will assist in obtaining information that is available to the agency or when it is more practical for the agency to obtain the information. The DHS staff person or contractor must also document information about the disability and accommodations including:

- The type of disability.
- How it affects the client's ability to comply with program requirements.
- What accommodations were requested and provided.
- The reason for a denial of any accommodations.

When documenting the above information, enter it at the beginning of the case summary screen for the date being recorded, so that the information can be more easily located.

Time Limits:

Complete a MEU referral for clients who have had an accommodation for a physical or mental disability approved and reach the 57th month of their 60 month time limit.

The Compliance Officer – ADA Responsibilities:

The Compliance Officer oversees and coordinates ADA compliance for the Department and its contracting agencies. The Compliance Officer:

- Reviews submitted ADA grievances and makes final determinations.(Bulletin 33, FF-07-14)
- Reviews, periodically, all accommodations requested, provided, or denied to:
  - Ensure that ADA policies are being appropriately applied.
  - Identify trends.
  - Identify training needs.
  - Identify needed improvement in application issues.
- Conducts ADA training for DHS contractors or reviews ADA training developed by the contractor.
- Ensures that all contractor staff who are involved in serving clients, including both new and existing staff, are trained on ADA policies and serving clients with disabilities.
- Conducts regular oversight of contractor ADA and agency compliance through site visits, case file reviews, interviews with staff, and other means. (Bulletin 33, FA-07-14)

Title VI Prohibition against National Origin Discrimination as It Affects Persons with Limited English Proficiency (LEP):

In order to ensure compliance with Title VI, DHS must take steps to ensure that LEP persons who apply for or receive Families First and our related programs have meaningful access to those programs. The most important step in meeting this obligation is to provide the language assistance necessary to ensure such access, at no cost to the LEP person.

- The type of language assistance provided depends on a variety of factors, including:

- The size of the organization providing the service.
- The size of the LEP population the organization serves.
- The nature of the program or service.
- The objectives of the program.
- The total resources available to the organization providing the service.
- The frequency with which particular languages are encountered.
- The frequency with which LEP persons come into contact with the program.

- The key to providing meaningful access for LEP persons is to ensure that the Department and the LEP person can communicate effectively. The steps taken must ensure that the LEP person:

  - Is given adequate information.
  - Is able to understand the services and benefits available.
  - Is able to receive those benefits and services for which he/she is eligible.
  - Is able to effectively communicate the relevant circumstances of his/her situation to the Department.

- In order to ensure that persons are not excluded from equal program participation due to limited English proficiency (LEP), the Department must provide trained and competent interpreters and other oral language assistance services to accommodate our LEP clients. We may:

  - Hire bilingual staff.
  - Hire staff interpreters.
  - Use volunteer staff interpreters.
  - Use volunteer community interpreters.
  - Contract with an outside interpreter service.
  - Use a telephone interpreter service.

  Friends and family members may be used as interpreters at the request of the LEP customer provided the use of such a person would not compromise the effectiveness of the services, violate confidentiality, and the client is first advised that a free interpreter is available. <u>The LEP customer's declination of the offer of free interpreter services must be documented.</u> DHS must also suggest that a trained interpreter (in addition to the friend/family member) sit in during the interview to ensure reliable and correct interpretation of information. Minor children cannot be used as interpreters.

- Written materials that are routinely provided in English to applicants, recipients, and the public must be made available in regularly encountered languages other than English. We must ensure that communication tools are provided to LEP customers. The following is a list of the minimum requirements for written documents that should be in the language of the customer:

  - Any documents that have to be signed.
  - Documents that describe the eligibility requirements to participate in a program.
  - Notifications of changes in status.
  - Documents informing customers of rights.
  - Communications informing clients of meetings and reviews for the purpose of renewal.

- OCR (Office for Civil Rights) will consider the Department to be in compliance with its Title VI obligation to provide written materials in non-English languages for:

  - **LEP language groups that constitute 10 percent or 3,000** (whichever is smaller) of a service area, if the Department provides translated written materials, including vital documents, for each eligible person to be served or likely to be directly affected by the FF program.
  - **LEP language groups that constitute 5 percent or 1,000** (whichever is smaller) of a service area, if the Department ensures that, at a minimum, vital documents are translated into the appropriate non-English languages for each eligible person to be served or likely to be directly affected by the FF program.
  - **LEP language groups that constitute fewer than 100 persons** in a service area if the Department does not translate written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral translation of written materials for each eligible person to be served or likely to be directly affected by the FF program.

    The "service area" is defined as the county served by each DHS office. The LEP population in each county would determine how individual offices apply the Title VI directives.

Title VI Prohibition on Discriminatory Conduct in Federally Funded Programs and Activities:

DHS may not discriminate against people on the basis of race, color, national origin, disability, or age in how we administer our programs or activities.

DHS may not indirectly discriminate on these bases through contractors or by means of any other arrangement. The Department is responsible for ensuring that our contractors administer their programs in a nondiscriminatory manner. *Public entities and private contractors that contract with the state to administer welfare programs are subject to the nondiscrimination statutes because they act as agents of DHS in carrying out the program or activity, not because they are recipients of federal assistance.*

- DHS **may not exclude or deny welfare benefits** to persons based on their race, color, national origin, disability, or age, or on the basis of sex in educational programs.

  Examples:

  - DHS caseworkers may not reject an applicant for benefits because he/she is or appears to be an African-American, Hispanic, Asian, American Indian, Alaskan native, or a member of another racial or ethnic group. If an applicant declares that he/she is a U.S. citizen, no further verification is required unless there is reason to question the statement.
  - Caseworkers may not reject an application based on the assumption that a person with a foreign-sounding last name is not a citizen and therefore is not eligible.
  - Neither DHS caseworkers nor the employees of a Families First contractor may deny benefits to persons who are not fluent in English because they assume persons who are, or appear to be, from other countries and are not English proficient are not eligible for such benefits.

- DHS **may not impose different standards or procedures to determine who may receive benefits** on the basis of race, color, national origin, disability, or age, or on the basis of sex in educational programs.

  Examples:

  - A Families First caseworker may not accept a self-declaration of qualified immigration status requiring verification from applicants who appear to be of African origin, yet require all immigrants from Spanish speaking nations to submit INS documentation because of an assumption that these applicants are illegal aliens.
  - Families First personnel may not report suspected illegal aliens to the INS on the basis of race, color, or national origin. Independent evidence supporting illegal alien status is necessary.
  - An employee of a contractor hired by the state may not delay a review of referrals from older individuals until after she evaluates referrals from younger persons.

- DHS **may not provide different benefits** to persons on the basis of their race, color, national origin, disability, age, or on the basis of sex in educational programs.

  Examples:

  - Do not reject applicants for job training programs because they are or appear to be Hispanic.
  - Do not assume that a single mother with four children will be unable to complete a rigorous training course because of her family responsibilities.
  - A DHS office located in an area consisting of Hispanic immigrants with limited English proficiency must provide written materials or other communication services in both English and Spanish that describe all of the benefits and services offered to applicants and participants.

Type of Conduct Prohibited in Employment Settings:

- Employment discrimination laws protect workers and prospective workers from discrimination based on race, color, national origin, citizenship status, and unfair documentary practices related to employment eligibility, religion, sex, age, or disability. These laws cover both individual employers and employment agencies, including DHS and contractors that provide job placement services for our program participants. The laws prohibit discrimination in all aspects of the employment process: hiring and discharge, compensation, assignments, and all other terms, conditions, and privileges of employment.

  Examples:

  - Employers or those referring welfare participants to employers may not discriminate because a person looks “foreign” or has an accent.
  - Employers must accommodate an employee’s or welfare participant’s religious practices unless doing so would create an undue hardship. For example, people must normally be permitted to wear religious attire unless doing so would create a safety hazard. Furthermore, a welfare agency may not refuse to refer an individual for employment because of his/her need for religious accommodation.

- Employers may not place female Families First participants in office positions while male Families First participants are placed in manual labor positions based on assumptions of the individual's skills and strengths.

Conduct on the Basis of Disability That Is Prohibited in Employment:

- Employers and those referring Families First participants to employers may not impose qualification standards that screen out any individual with a disability or a class of individuals with disabilities unless such standards are shown to be job related and consistent with business necessity.

  Example:

  An employer may want to require each job candidate have a driver's license. If driving is an essential function of the position, for example, a bus driver's job no change in policy is required. If the job can be done with accommodation (a personal driver, for instance), then the policy must include this accommodation. However, if an applicant was seeking a position for which having a driver's license is merely convenient (such as a secretarial position), the employer is prohibited from applying this requirement to an applicant who does not have a driver's license because of a disability.

- The ADA limits an employer's ability to ask questions of applicants and employees regarding the existence, nature, or severity of a disability and to require medical examinations. Employers may not ask disability related questions of applicants or require medical examinations before an offer of employment is made. If an applicant has a known disability that may prevent the individual from performing the essential functions of the job, the employer may ask how, with or without reasonable accommodation, the applicant would perform the specific tasks required.

  Example:

  - A Families First recipient has just applied for a job as a data entry clerk. As she is filling out a personnel form, she mentions this is the first job she has had since she developed Carpal Tunnel Syndrome. The personnel manager cannot ask her for the name of her doctor so he can determine if she is currently under treatment. However, the personnel manager may ask her to demonstrate or describe how she would perform her job-related duties.

- Employers are required to provide reasonable accommodations to employees to enable them to perform the essential functions of their jobs unless the employers can demonstrate that providing reasonable accommodations would cause undue hardships to them. *"Reasonable accommodation"* includes, but is not limited to:

  - Modifying existing facilities to make them accessible.
  - Acquiring or modifying equipment.
  - Providing readers or sign language interpreters.
  - Offering part-time or modified work schedules.
  - Restructuring the duties of the job.

- In determining whether an accommodation would impose an *"undue hardship"* on an employer's business or program, the following factors should be considered:

  - The overall size of the business or program with respect to the number of employees, number and type of facilities, and size of the budget.
  - The type of the employer's operation, including the composition and structure of the workforce.
  - The nature and cost of the accommodation needed.

  Examples:

  - A Families First recipient who uses a wheelchair obtains a job on the clerical staff of an employer whose offices are in a building that has two steps at the entrance. The employer may be required to provide reasonable accommodation for the employee by providing a ramp at the building entrance. A job training program offered by an employer may be required to provide sign language interpreters for deaf employees when it is necessary to enable them to participate in the training.
  - DHS hires an accountant with impaired vision. The Department may be required to provide reasonable accommodation for the accountant by obtaining computer equipment to enable the accountant to read printed material.

Accommodations Procedures:

- **Waiver of office interview** for Families First applicants:

  - If the client has named an authorized representative for the AU, the representative can come to the office in lieu of the client. The authorized representative may answer basic questions needed for eligibility determination but may not negotiate a PRP or provide other selected information, e.g. child support cooperation. The PRP and child support discussion must be with the client.
  - The office interview **must** be waived upon request by any AU which is unable to appoint an authorized representative and:

    - Has no AU members able to come to the county office because they are 65 years of age or older or are handicapped/disabled.
    - Lives in an extremely remote location.
    - Has no AU members able to come to the county office because of transportation difficulties or similar hardships which the county determines, on a case-by-case basis, warrants a waiver of the office interview. These hardship conditions include, but are not limited to:

      - Illness.
      - Care of a household member.
      - Prolonged severe weather.
      - Hardship associated with living in a rural area.
      - Employment or training hours that prevent an applicant/recipient from participating in a face-to-face interview.

NOTE: If needed, the county office should try to accommodate working/training hours by scheduling appointments outside traditional business hours.

- Telephone interviews

  The county office may offer a telephone interview in lieu of a face-to-face interview for an AU for whom the face-to-face interview has been waived.

- Out-of-office interviews

  For those clients who are unable to come to the office or participate in a phone interview, interviews may be held in a mutually agreed-upon site (e.g. community mental health center, client's workplace, DHS satellite offices, community agencies, or other locations).

- Alternate interview examples

  - When a client is hospitalized, a telephone interview or an authorized representative interview should be offered.
  - A home-bound disabled client who is unable to be served through a telephone interview or authorized representative should be offered a home visit.
  - If a handicapped/disabled client indicates that he/she needs a home visit because of transportation problems, consult with the Area Manager for additional guidance as to whether the accommodation should be made. A home visit is not necessarily the mandated accommodation if other arrangements, e.g. telephone interview or alternate transportation, can be made.

Filing Discrimination Complaints for Non-Compliance with Title VI and the ADA:

Any individual or his/her representative may file a discrimination complaint with the county, district, or State Office of the Department of Human Services, or with the U. S. Department of Health and Human Services. Complaints may also be filed with the Tennessee Human Rights Commission. A complaint may be filed at both the state and the federal levels, separately or concurrently, at any time during the process. The complaint may concern discriminatory practices or actions on the part of DHS. The complaint may also involve practices or actions by other agency related institutions, organizations, contractors, medical care vendors or practitioners that participate in the Families First program by providing aid, care, or services. DHS will investigate each complaint promptly to determine whether or not it is justified and, if justified, what corrective action is appropriate. Following the receipt of a complaint, the following actions should be taken:

- **Instruct the complainant to submit the complaint in writing**, preferably on Form HS-2631, *Complaint Under Civil Rights Act of 1964.* The complainant, his/her representative or a Title VI Coordinator may complete the form. A verbal complaint may be taken, but must subsequently be recorded on Form HS-2631. Unless a complaint is already being filed at the state or federal level, it is preferable that all complaints be filed initially at the local level within 30 days of the alleged discriminatory act.

  If the complainant is not willing to complete the official form, he/she may write a letter setting forth his/her grievance and a staff member will complete the form. If the complainant

refuses to file an official written complaint, record the complaint in the eligibility and case management system.

- **Record the complaint in the Title VI Complaint Log.** List complainant identification and type/status of the complaint.

- **Send the original copy of the complaint to the Compliance Officer** in Nashville.

Compliance Officer
Citizens Plaza Bldg. - 15th Floor
400 Deaderick Street
Nashville, TN 37243 (Bulletin 33, FA-07-14)

Include all pertinent information. Give a copy of the complaint to the complainant, and retain one for local files. The local Title VI Coordinator must notify the State Compliance Officer immediately when any complaint is filed.

- **Mail a letter to the complainant** acknowledging receipt of the complaint within five calendar days of the date that the complaint was received.

- **Conduct a fact-finding investigation within 30 calendar** days of the receipt of the complaint. The local Title VI Coordinator is responsible for this initial investigation. When the complaint applies to discriminatory actions on the part of contracting agencies, individuals, or institutions from which assistance or service is purchased or secured by the Department, the complainant will be interviewed to secure as much information as possible. The interview will examine the nature of the complaint, the precipitating circumstances, and identify the date the alleged act occurred.

- **Report investigation findings to Department management** within five days of completion of the investigation. If the report includes a finding of violation of Title VI, include any proposed remedial action in the *Report of Investigation*, Form HS-2632.

- **Give the written findings to the complainant** within five calendar days after the above report is completed. At this time, inform the complainant of his/her right to appeal at the state or federal level if there is disagreement with the investigation findings or the proposed remedial action. Include appeal form and instructions for filing.

Filing an Appeal:

Instruct the complainant to complete Form HS-2634, *Appeal from Finding.* The local Title VI Coordinator must forward a copy of the complaint, the findings, the proposed action, and the request for an appeal to the DHS Title VI Coordinator within 10 calendar days after the date of the appeal. Forward the form to the Tennessee Human Rights Commission (THRC) or the complainant may mail the form directly:

Tennessee Human Rights Commission
530 Church Street, Suite 400
Nashville, TN 37243-0745
Phone: (615) 741-5825

Complaints (for Medicaid/TennCare and Families First) filed with Federal agencies should be sent to:

U.S. Department of Health and Human Services
Office of Civil Rights
Atlanta Federal Center
61 Forsyth St. S. W., Suite 3B70
Atlanta, GA 30303
Phone: 1-800-368-1019

Public Notification of Nondiscrimination Compliance:

- The Civil Rights pamphlet will be given to each applicant/recipient at each application and review. The application form will contain information about rights and responsibilities.

- All Tennessee Department of Human Services offices will permanently display the nondiscrimination poster provided by USDA, Food and Nutrition Service.

- The Department will ensure that applicants/recipients and other low-income families/individuals have access to information regarding nondiscrimination statutes and policies, complaint procedures, and the rights of participants within 10 days of the date of a request for such information.

Availability of Information:

- The following will be available to all staff involved in eligibility determination for Families First benefits:

  - Tennessee Family Assistance Plan of Operation (includes waiver information).
  - Federal procedures.
  - Tennessee Department of Human Services Families First Handbook.
  - Supplemental instructions (bulletins and memos) issued for use in serving households applying for Families First.

  These program guides will be maintained in the county and State Office of the Department of Human Services for examination by the public on regular workdays during regular office hours.

- Copies of the Families First Handbook are made available to public custodians. Public custodians are those who:

  - Request the manual or handbook for use by the public.
  - Are centrally located and publicly accessible to a substantial number of the recipient population.
  - Agree to accept responsibility for filing amendments and changes forwarded to them by DHS.

- Initial copies and complete reprints are issued to public custodians without charge. Any other request has charge related to the cost of reproduction.

- Any group or individual, other than those mentioned above, who requests a handbook and agree to use it for informational purposes, may be furnished a copy at the discretion of the Commissioner or his/her designee. There may be a charge related to the cost of reproduction. Upon request, specific policy materials necessary for an applicant/recipient or his/her representative to determine whether a fair hearing should be requested or to prepare for a hearing may be made available to the applicant/recipient and/or representative without charge.

- An up-to-date copy of the Families First Handbook is maintained in the county, district, and state DHS offices. Copies of portions of the manual will be made available upon request to students, researchers, and other agencies at cost of reproduction of the materials.

- An up-to-date copy of the Families First Handbook is available through the Internet at http://intranet.state.tn.us/dhs/adfam/fa/tanf/ff-handbook.pdf.

Use of Families First Cash Payment (Grant):

The Families First cash payment (accessed through the use of an EBT card) is designed to provide a subsistence payment for a dependent child and caretaker in conjunction with other income and support already available to the assistance unit. It takes into consideration the resources and income conditions existing in each case and is issued in compliance with state rules and regulations.

The Department is not at liberty to determine for the recipient what use he/she will make of the Families First benefits. Staff may counsel with a recipient about the use of his/her benefits but must be careful to avoid activity or instruction that would limit the recipient's freedom of choice. However, vendor and protective payments may be made under certain circumstances.

Right to Apply for Families First:

- Any person who wishes to apply for Families First has the right to do so. He/she will not be required to provide proof of eligibility before doing so. Proof of eligibility will be required before assistance is granted.
- Families First individuals will be required to provide proof of eligibility circumstances. In instances where the information is readily available to the Department or where it is more reasonable for the Department to secure the information, the Department will do so.

Right to Information or to File Informal Complaints:

Persons or agencies who desire program information or wish to file an informal complaint about Families First may contact any or all of the following:

The Area Manager or FS I at the local county office. The phone number and address may be found in the telephone directory for the town designated as the county seat.

The District Administrator or District Family Assistance Director,
Families First Policy
400 Deaderick Street
Nashville, Tennessee, 37243

Assistant Commissioner, Adult and Family Services
400 Deaderick Street
Nashville, Tennessee, 37243

Commissioner
400 Deaderick Street
Nashville, Tennessee 37243

APPEALS AND FAIR HEARINGS

POLICY STATEMENT

Any applicant for, or recipient of, Families First may file an appeal through the county office, district office, State Office or the Family Assistance Service Center when dissatisfied with an action on his/her case. Complaints must be given prompt and careful attention and corrective action, when indicated, must be taken immediately. The county office or the Family Assistance Service Center must provide whatever assistance the complainant requires in appealing for a fair hearing. The county office staff must provide the Families First participant with a Tennessee Department of Human Services Appeal form or complete the form on his/her behalf.

If an individual files an appeal because he/she is dissatisfied with an action or lack of action by the county office, the county office will offer the complainant the opportunity to have a conference with either the caseworker or the supervisor to discuss the issue. The caseworker will inform the appellant that the conference is optional and will not delay or replace the fair hearing. The individual may also question the Department's interpretations of the law and the validity and applicability of the policies to his/her situation. Group hearings may be conducted where the sole issue is one of state or federal law, regulation or policy.

If the individual is not willing to discuss his/her grievance with local staff, he/she may request an appeal without a conference with the caseworker or supervisor. However, he/she should be encouraged to resolve the issue through the informal conference. If the individual files an appeal, it cannot be delayed or canceled without his/her consent because of the outcome of any subsequent informal conference.

Right of Appeal:

Every applicant/recipient must be informed of his/her right to appeal if he/she is aggrieved by an action or lack of action by DHS. Anyone who applies or wants to apply for Families First benefits must be given the informational pamphlet that explains the right of Appeal and Fair Hearing, the method by which a hearing may be obtained and that his/her case may be presented by a household member or a representative. Any applicant/ recipient must be informed about these rights:

- Verbally at the interview when he/she applies for benefits.
- In writing on the notice regarding the action taken on his/her application.
- When he/she indicates disagreement with an agency action. In addition, the appellant must be informed of any free legal representation that is available. DHS staff will refer the appellant to any legal services available in the community.

All Department hearing records and decisions are available for public inspection and copying, subject to the disclosure safeguards provided by federal regulation. In addition, the names and addresses of appellants and other members of the public must be kept confidential.

Appeals may arise from conflicts or dissatisfaction related to an action or lack of action

by DHS such as, but not limited to:

- A decision regarding eligibility for Families First such as amount of assistance, the manner of payment, restrictions on the payment or the amount of payment for services.
- Reduction or termination of Families First benefits.
- Failure to act on a request for Families First benefits within 45 days.
- State or federal laws, policies or regulations considered unfair or unreasonable.
- Discriminatory treatment or practices on the basis of race, color, age, sex, handicap, religious creed, national origin or political belief. In the case of a discrimination complaint, see Rights and Responsibility chapter.
- The content of the Personal Responsibility Plan.
- The activities or support services provided which are related to the Personal Responsibility Plan.

EXCEPTION: If the appeal is regarding an action of a Title XX Third Party agency, that agency is responsible for responding to the complaint. If the complaint is not resolved informally by the Third Party agency, the complainant can bring his/her case to the Department of Human Services for further review through the appeal process.

Complaints by an interested individual on behalf of an applicant/recipient must be handled within the limits of confidentiality. When an appeal is filed, every effort must be directed to resolving the appeal promptly and, if possible, to the complainant's satisfaction.

Division of Appeals and Hearings Functions

Fax all county office Families First appeals to the Division of Appeals and Hearings. The county office may continue to take action to resolve the issues in the appeal informally. If the informal hearings result in resolution, the county office must Fax a Withdrawal of Appeal form to the Division of Appeals and Hearings. At that time, the appeal process will cease.

Fax all Family Assistance Appeals to:

Director of Intake and Conciliation
Tennessee Department of Human Services
Division of Appeals and Hearings
P.O. Box 198996
Nashville, TN 37219-8996
Fax: 1-866-355-6136 (Long Distance) or 313-5013 (Nashville or 615 Area Code)

The Family Assistance Service Center will accept appeal forms or file a verbal appeal on behalf of the Families First participant. The Family Assistance Service Center will document the request for an appeal in the Family Assistance eligibility and case management system and enter the request for an appeal into the ARTS system. The responsibilities of the Division of Appeals

and Hearings will be divided among the three units described below and organized according to the action needed on each case.

- The Intake Unit is the initial receiving point for appeals and miscellaneous mail. Intake Unit staff will enter the appeals that have been Faxed or mailed to them into the Appeals Resolution Tracking System (ARTS);

  NOTE: When an appeal is entered into ARTS as complete, it automatically goes to the Conciliation Unit.

- The Conciliation Unit staff will be responsible for conciliation attempts concerning appeals. They will:

  - Determine if the appeal was filed timely.
  - Make an initial determination of whether it is fair hearable.
  - Determine benefit continuation/reinstatement pending the appeal decision.
  - Send a letter of acknowledgment of the appeal and informational attachments to the Families First participant.
  - Resolve as many appeal issues as possible through communication with the appellant and the county office.
  - Ensure that the due process rights of the appellant are upheld.
  - Review the appeal to determine if the case action relative to the appeal was appropriate.
  - Make changes on items relative to the appeal.
  - Reinstate benefits if the case was closed because of caseworker error.
  - Contact the county office caseworker and FS1 to make the case correction if the Conciliation Unit is unable to do so.
  - Forward the appeal to the Case Preparation Unit if unable to resolve the issue.

  NOTE: The Conciliation Unit will not have the authority to make changes on the PRP, Child Care information, or Refugee Cash Assistance cases.

- The Case Preparation Unit will:

  - Prepare the case for a hearing with the Hearing Official.
  - Schedule the hearing, and notify individuals needed to testify.
  - Give the appellant notice that will include the date, time, place and issue of the hearing.

  After the hearing, the Hearing Official will issue an order. The Hearing Official will send the order to the appropriate county office, which will take action to implement the order. The Case Preparation Unit will monitor implementation of the order.

Timeliness for Filing Appeals:

Families First appeals must be filed within 90 days after the mailing date of the written notice sent as a result of the case action. If an appeal is filed within 10 days of the notice of adverse action on an <u>active</u> case, Families First benefits can be continued at the previous level, pending the final decision of the Hearing Official. However, the individual must be informed that, if the county's decision is upheld, the AU will be responsible for repaying the benefits paid pending

the decision. If benefits are to continue pending the outcome of the appeal, the Conciliation Unit will authorize the benefits on the Eligibility and case management system.

When benefits are continued, the Hearing Official may determine at the hearing if the issue being appealed is one of law, regulation or policy or if the issue is a matter of fact or judgment. If the Hearing Official issues an oral decision that the issue being appealed is one of law, regulation or policy, the Families First benefits must be reduced or terminated immediately, as indicated in the original notice of adverse action. The Hearing Official will notify the appellant and the county office in writing that benefits must be reduced or terminated immediately, pending the final hearing decision.

Once benefits have been continued, they cannot be reduced or terminated prior to the final hearing decision unless:

- The Hearing Official issues an oral and written decision that the issue being appealed is one of law, regulation or policy and that the appellant's claim that the county improperly computed the benefits, misinterpreted, or misapplied such law or regulation is invalid.

- Another change occurs while the hearing decision is pending that affects eligibility or benefit level, and the appellant does not request a hearing on that issue during the 10-day adverse action period.

- A mass change occurs while the hearing decision is pending.

The 10- and 90-day counts for filing an appeal will begin the day after the notice is mailed. If the 10th or 90th day falls on a weekend or holiday, the time limits will be extended to the next working day. <u>An appeal filed on the 10th or 90th day is considered timely</u>.

Good Cause for Filing a Late Appeal:

Appeals may be accepted after the 90-day time limit if the appellant can show good cause as to why the appeal could not be filed within 90 days. In addition, benefits can be continued if the appellant can show good cause for failing to file the appeal within 10 days. The decision regarding good cause is made by the Commissioner or his/her designee.

Filing an Appeal:

An individual can file an appeal either orally or in writing. The appellant should give a clear statement about the issue of the grievance and his/her mailing address on the appeal form if the appeal is in writing. If the issue is unclear, the caseworker or the Family Assistance Service Center should clarify the issue prior to submitting the appeal. The caseworker or the Family Assistance Service Center must assist the appellant in filing the appeal in any way necessary.

The caseworker will explain on the appeal form the action taken or delay in action that is the issue of the appeal. This explanation should include:

- The date the appeal was requested (either orally or in writing).

- A clear statement of the action taken or delay in action taken on the case.

- The date(s) the action was taken on the case.
- The state rule numbers of the policy in question. The state rule numbers can be located at http://www.tennessee.gov/sos/rules/1240/1240-01/1240-01.htm.

The appeal form must be faxed to the Division of Appeals and Hearings on the date the appeal is filed. The caseworker will not wait for the appellant to sign the appeal form before submitting it to the Division of Appeals and Hearings if the appeal was filed orally or if the individual refuses to sign the form. If the appellant requests the appeal orally or refuses to complete the form, the caseworker will complete the form and Fax it to the Division of Appeals and Hearings.

Appeals that are requested verbally through the Service Centers must be entered directly into ARTS. Information must include:

- The case name and case number.
- The date the appeal was requested.
- A clear explanation of the reason for the appeal.

If the individual first contacts the State Office to request an appeal, the State Office staff will fax the Division of Appeals and Hearings with all pertinent information, including the name and address of the appellant. The Division of Appeals and Hearings will treat this as any other oral request and process in the manner described above. All procedures described above will be followed for appeals initiated in the State Office.

The Responsibilities of the District Family Assistance Director:

Copies of correspondence between the District Family Assistance Director, the county office, the Medical Evaluation Unit, and others will be sent to the Division of Appeals and Hearings to inform the staff of the status of the appeal. Copies of correspondence coming from the appellant or others in the community about the facts of the case also should be sent to the Division of Appeals and Hearings.

The responsibilities of the District Family Assistance Director may be delegated to the District Program Supervisor.

Interim Adjustments:

While the appeal is pending, the county office or the Division of Appeals and Hearings will take any action on the case needed to correct an error or to reflect changes in the AU's circumstances or in agency policies. Written notice of each change and advance notice, if required, must be given prior to the change.

In an appeal case where medical disability is the issue, the supervisor, the appellant or his/her representative, and the caseworker must hold a conference to determine if more medical and/or social information can be obtained. If no new information can be obtained, the caseworker will then process the appeal form.

If more pertinent social and/or medical information is obtained, the appellant may request that his/her medical file be re-evaluated by the MEU prior to the hearing. The appellant must sign an original and three copies of the Consent for Delay form. The original copy should be held by the county office; one copy will be sent to the District Family Assistance Director; one copy will be sent to the Division of Appeals and Hearings; and one copy attached to the medical record that is sent to MEU. The case should include a letter explaining that the case is in appeal status. The MEU will then give prompt attention to the request for review and will respond with a decision.

If the MEU decides in favor of the appellant, the appellant will be asked to sign a Withdrawal of Appeal form. If the MEU does not decide in the appellant's favor, then the appeal process will continue.

In an appeal case where medical incapacity is the issue, the supervisor, the appellant or his/her representative, and the caseworker must hold a conference to determine if more medical and/or social information can be obtained. Any new information should be acted upon. The appellant may choose to continue or discontinue the appeals process whether or not new information is presented at the conference.

If more pertinent social and/or medical information is obtained, the appellant may request that his/her medical file be re-evaluated by the MEU prior to the hearing. The case should include a letter explaining that the case is in appeal status. The MEU will then give prompt attention to the request for review and will respond with a decision.

If the MEU decides in favor of the appellant, the appellant will be asked to sign a Withdrawal of Appeal form to withdraw the appeal. If the MEU does not decide in the appellant's favor, then the appeal process will continue.

Withdrawing an Appeal:

If the appeal is resolved in favor of the appellant, the appellant will be informed of the same and will not have to withdraw the appeal in writing. If the appellant is satisfied with an adjustment or explanation of the reason for the action by local or district staff or by the Division of Appeals and Hearings Conciliation Unit, he/she will be given the opportunity to withdraw the appeal at any point during the appeal process. The appellant should complete and sign a Withdrawal of Appeal form, giving the reasons for the withdrawal. This explanation should be done in his/her own handwriting and words, if at all possible.

If the appellant wishes to withdraw the appeal but does not want to sign the form, the caseworker or Division of Appeals and Hearings worker will complete it and attach the appellant's written statement.

The caseworker or Division of Appeals and Hearings worker will complete the Withdrawal of Appeal form, giving the reason for the withdrawal. The caseworker or Division of Appeals and Hearings worker must:

- Explain any action being taken on the case.
- The dates of the action.
- The facts upon which the action was based.

- Cite applicable laws or regulations.

- Any admissions, stipulations or agreements between the appellant and the agency.

If benefits are being restored, the amounts and effective dates of those benefits must be included, as well as copies of budgets if there were changes in income, need, or AU composition.

Hearing Process:

All hearings will be tape-recorded. Recordings will not be transcribed routinely. However, any party may request, at his expense or by the Division of Appeals and Hearings' expense, a transcript of all or any part of the recording. If the Division of Appeals and Hearings elects to transcribe the proceedings, any party will be provided a copy of the transcript upon payment of a reasonable fee. All recordings will be kept on file for no less than three years and then destroyed if there have been no further developments in regard to the appeal.

The Hearing Official will enter an Initial Order in writing, which will contain a report of the hearing and a preliminary decision regarding the hearing. The Initial Order will be sent to the appellant and the county office. The report of the hearing will include the following information:

- The names and identities of the persons present at the hearing.

- A statement of the issues.

- A summary of the substance of the hearing that includes:

  - A citation of oaths administered.
  - A statement of the evidence presented.
  - Exhibits, stipulations, admissions, and matters officially noticed.
  - Questions and offer of proof, objections, and rulings on any objections.
  - Attachments, which include the appeal form, the Withdrawal of Complaint (if applicable), the appeal summary prepared by the county office, acknowledgment notices, budget screens, and all documents or correspondence pertaining to the appeal.

- The recommendation of the Hearing Official, which will include:

  - A concise statement of the issues.
  - The facts brought out in the hearing.
  - Citation to the applicable law or regulation.
  - The reasoning that led to the conclusion.
  - The recommendation to the Commissioner or his/her designated representative.

<u>The recommendation is based exclusively on the evidence obtained in the hearing. Confidential or other information which the appellant or his representative does not have an opportunity to hear, see, respond to, or consent to will not be introduced at the hearing nor become a part of the hearing record, since due process requires that all parties must have the opportunity of cross-examination and rebuttal.</u>

The appellant, his/her representative, and the Case Prep Unit worker who attended the Hearing will receive copies of the initial order. This report will allow the parties to examine the order for completeness and accuracy. Any party to the hearing may file a Petition for Reconsideration and/or Appeal of the Initial Order by submitting written comments, arguments, and exceptions to the order within 15 days of the mailing of the report. In accordance with due process, it is not permissible to add new evidence that was not presented at the hearing.

The following information will be submitted to the Commissioner or his/her designated representative for the final decision:

- The report of the hearing.
- All exhibits and documents which were made part of the hearing record.
- A recording of the hearing or transcription, if one was made.
- Hearing Official's recommendation.
- Any additional comments, arguments, and exceptions filed within 15 days of the Hearing Official's decision.

The Final Order entered by the Commissioner or his/her designated representative shall either:

- Adopt the decision of the Hearing Official as set forth in the Initial Order.
- Modify and/or reverse the decision of the Hearing Official as set forth in the Initial Order, specifying the basis of the modification or reversal.
- Remand the case to the Hearing Official for a specified reason.

While the Final Order is binding upon all parties to the appeal, either party may file a Petition for Reconsideration of the Final Order within 15 days of the date of the Final Order. This petition must be in writing, stating the specific grounds for the request. Filing a Petition for reconsideration of the Final Order shall not supersede or delay the effective date of the Final Order. The Final Order will take effect on the date entered and will continue in effect until the Petition for Reconsideration of the Final Order is granted or until the Final Order is superseded, modified, or set aside in a manner provided by law.

However, if a change affecting the recipient's benefits occurs while the reconsideration is pending, action to implement that change will not be delayed pending the decision on the petition.

Implementing the Decision

If the decision is in favor of the appellant and benefits have not been continued, the benefits will be reinstated and any lost benefits will be issued in accordance with the final decision. If the case was closed, an application is not necessary to reopen the case because of an appeal final decision.

If the final decision upholds the county's action and the Families First benefits have been continued, the AU's benefits will be reduced effective the first possible month after receipt of the decision. No advance notice is required to implement a hearing decision. An overpayment claim will be referred to COTS to recover any excess benefits that the AU received pending the final decision of the hearing.

Time Limits for the Appeal Process:

The maximum time limit for processing appeals is 90 days for the Families First Program. The hearing can be delayed if the appellant is ill or if there is a delay in obtaining medical evidence because of circumstances beyond the control of the appellant or DHS.

Judicial Review:

If the individual disagrees with the final decision in a fair hearing, he/she has the right to request a judicial review. The appellant must file a petition for review in the chancery court for the county in which the appellant lives or in the chancery court in Davidson County within 60 days of the date of the Final Order.

DOCUMENTATION

A full explanation of the circumstances surrounding the appeal must be clearly explained in ARTS and in the Eligibility and case management system running record comments. This explanation should include:

- All of the issues in question.
- The reason for the county's decision.
- The outcome of any conferences regarding this matter.
- The outcome of the preliminary and final decisions of the hearing.
- The action taken as a result of the final decision.

PROCEDURES

Processing Fair Hearing Requests

When an individual requests a fair hearing, the county office will Fax the appeal to the Director of Intake and Conciliation, Division of Appeals and Hearings.

All pertinent information regarding the appeal, such as what action was taken on the case that caused the individual to request the appeal, the program for which the appeal is being filed, and an explanation of the issue of the appeal, must be included on the form. The completed form must be faxed to the Division of Appeals and Hearings on the same day that the hearing request is received in the county office. Forms are distributed to the following parties:

- Original Faxed to the Director of Intake and Conciliation, Division of Appeals and Hearings.

- One copy to the District Program Supervisor.
- One copy to the appellant and/or his/her representative.
- One copy to be retained by the county.
- One copy to the Commissioner's office, if discrimination is an issue.
- One copy to the District Director of Investigation, if the action was based on an investigative report.

Routing of a Withdrawal of Complaint:

The county office, or Service Center, will send the Withdrawal of Appeal form to the Director of Intake and Conciliation, Division of Appeals and Hearings, the day it is received. The distribution for the Withdrawal of Appeal form is the same as for an appeal form, except that the original is sent to the Division of Appeals and Hearings, Director of Intake and Conciliation.

APPLICATION PROCESS

POLICY STATEMENT

- Make applications available to individuals who request an application in person.
- Mail the application on the same day an application request is received by mail, phone, FAX, or on-line.
- The Families First application process begins with a signed request for assistance on the Department's Family Assistance application form HS-0169.
- DHS will accept signed and dated applications received in the county office. The application may be received in person, by mail, by fax, or on-line. The application file date will be the date the application is received in the county office, either by fax, mail, person, or on-line. The file date for a faxed application includes holidays and weekends. Faxed applications that contain the applicant's name, address, and handwritten signature are acceptable. Receipt of an original application in addition to the fax is not required.
- The application can be used for **all** Family Assistance programs. The applicant indicates the particular program for which he/she wishes to apply.

The Application Process Consists of:

- Making applications available.
- Assisting in completion of the one page application, if necessary.
- Conducting an interactive interview with the caretaker. If interviewing outside of the office, use a paper application form, maintain the application date and record the information on the eligibility and case management system as soon as possible.
- Obtaining necessary verification.
- Developing a Personal Responsibility Plan (PRP).
- Authorizing the assistance unit.
- Providing individuals who are disabled and require additional assistance reasonable accommodations in accordance with the Americans with Disabilities Act. For example, the caseworker may provide, upon request, enlarged print notices to an individual who has a visual problem and difficulty reading the notice.

Filing an Application:

- The application should be filed in the county of residence. If the assistance unit should move from the county during the application process, the application will be transferred and the application date will be protected.

- Any person making an inquiry about an application should be advised of his/her right to same-day filing to protect the application start date.

- Any person requesting to file an application will be given the opportunity to do so and will not have to provide proof of any eligibility criteria prior to doing so.

- If an application is requested by mail, it must be mailed the same day the request is made.

- If a county has designated offices to serve specific areas of the county, applicants may contact the wrong office. When this occurs, the applicant must be advised of the correct office at which he/she should apply and be given the address and phone number. The applicant must be given information about same-day filing. An offer should be made to forward the application to the correct office. If the application is received by mail in the wrong office, the application must be mailed to the correct office the same day.

- The assistance unit may voluntarily withdraw its application at any time prior to the determination of eligibility. The caseworker will document in the Eligibility and case management system the reason for withdrawal and that contact was made with the AU to confirm the withdrawal. The AU will be advised of the right to reapply at any time.

Promptness of Applications:

- The standard of promptness for completing Families First applications will be 45 days following the date the signed and dated application is received in the county office.

- The Department is under Federal court order to process all applications timely. Any application for Families First that is not processed and authorized on the 49th day will be issued interim benefits based on the information that is available in the case record.

- The authorization action will consist of approval or denial. Denial will be based on ineligibility for the program, failure to develop and sign a Personal Responsibility Plan, loss of contact, withdrawal of the application, or death of the applicant.

- The assistance unit is authorized on the eligibility and case management system. When the authorization occurs, the case is processed overnight and the appropriate notice and benefits (if any) are mailed to the AU on the next working day.

Technical Eligibility Determination:

The following must be established during the application process:

- Age.

- Residence.
- Citizenship and alien status.
- Relationship.
- Deprivation.
- Enumeration.
- School Attendance.
- Incapacity or unemployed parent status for two parent households.
- Immunization and Health Checks.
- Income.
- Resources.
- Minor Parent's school attendance.
- Cooperation with Child Support.
- Development of Personal Responsibility Plan.

Families First Application when case closed or denied less than three months:

- The applicant must complete the one page paper application.
- The applicant must be interviewed and have all points of eligibility reviewed.
- All matches must be resolved.
- Verify the following factors of eligibility:
  - That the point(s) of eligibility which caused the previous denial or closure no longer exists.
  - Assistance unit composition.
  - Income.
  - Deprivation.
  - Deductible expenses.
  - Resources if questionable.

  The Eligibility and case management system will require that all eligibility factors be verified. Unless the information is questionable at the time of the interview, accept the previous verification and the statement of the applicant for the verification other than those listed above.

- Renegotiate the Personal Responsibility Plan

Apply the Preceding Application Procedure When:

- The AU is applying within three months after closure due to a child support or work sanction.

- The AU was closed due to excess resources, but it reapplies within three months and is now within the resource limits.

- AU failed to submit required verification(s) within specified time frames, but it did so at a reapplication within three months of the denial.

- AU was closed due to income from employment, but the affected person is now unemployed (and did not voluntarily quit a job without good cause) and reapplies within three months of closure.

Applying for Families First and Appearing Potentially Eligible for SSI:

- When the parent or other caretaker relative who is making application for Families First appears to be potentially eligible for SSI, the applicant will be asked whether application for SSI has been made. If application has not been made, a brief explanation of the program will be provided to the applicant.

- The parent will be included in the AU and, if he/she chooses to apply for SSI and becomes eligible, he/she will be removed from the AU at the time eligibility for SSI is attained.

- If the parent or other caretaker wishes to relinquish SSI and be included in the Families First AU, the caseworker will explain the differences in benefits. If the individual chooses to be in the Families First budget, the caseworker will ask the individual to talk to a Social Security Office representative. When the SDX verifies that the individual no longer receives SSI, the individual may be added to the Families First AU.

TIMELINESS STANDARDS

POLICY STATEMENT

The standard for completing applications for Families First will be no later than 45 days from the date the AU or its representative files the application.

An opportunity to participate in the Families First Program consists of providing eligible assistance units with a cash payment within 45 days after the completed application is filed. An opportunity to participate has been provided if the Families First check is mailed prior to or on the 45th day after the application is filed. A check is mailed the first work day following the day the authorization is completed.

Providing Notices:

- The eligibility and case management system will generate a notice to the applicant on the first work day following the day the Families First AU has been approved or denied.

- The reason for the approval/denial will generate the text for the approval or denial notice of the Families First AU.

- The notice will contain:

  - The on-going monthly benefit amount and the amount for each month of the application period.
  - The month the cash payment will begin.
  - A fair hearing statement and the name and telephone number of the person to contact for additional information. If there is an individual or organization that provides free legal representation, the AU will be advised of the availability of that service.
  - A reminder to report changes in circumstances within 10 days.

INTERVIEWING FOR ELIGIBILITY

POLICY STATEMENT

Interviewing plays a vital role in client and agency communication. Interviews provide an opportunity for the client to communicate on a more substantive level.

The skillful use of the interview permits the caseworker/client rep to obtain accurate and reliable information, which is used to determine eligibility and develop the Personal Responsibility Plan.

Purpose of an interview:

- The interview helps the client gain an understanding of the Department and its programs, clarifies questions about eligibility, and provides an opportunity to present information in his/her own words.

- The interview permits an opportunity to gather information needed to determine eligibility in an organized fashion and to assist the client in requesting a better understanding of the requirements of the program.

- The interview permits the Families First client an opportunity to communicate goals and to request supportive services needed to move to self-sufficiency.

- The interview gives the caseworker an opportunity to discuss goals and specific needs of the client that will help the family move to self-sufficiency.

- The interview provides the opportunity to discuss the client's rights and responsibilities.

- The interview provides an opportunity to discuss other resources that may be of assistance to the client.

- The interview will provide the caseworker with the information needed to determine which one of the four paths through the program is most appropriate for the family.

Determination of Appropriate Path:

The interview with the Families First client establishes the reason for the individual's request for assistance, helps determine eligibility, and ascertains the kind of assistance that would be most beneficial in meeting his/her needs. Once an applicant has met all technical requirements for Families First, the caseworker/client rep will determine which of the four program paths is most appropriate for the family.

The four paths are:

- **Child-Only:** The caretaker is a non-parental relative, not included in the AU, or an SSI caretaker.

NOTE: Cases with an illegal alien caretaker follows the child only path but are not exempt from time limits.

- **Work Exempt**: The caretaker is an eligible member of the AU but is unable to work because he/she:

  - Is 65 years old or older.
  - Is disabled.
  - Is temporarily incapacitated.
  - Is caring for an in-home disabled relative. **(Bulletin 37, FA-08-28)**
  - Is caring for an infant up to 16 weeks of age.

- **Diversion**: The caretaker is technically eligible for Families First, but he/she meets the Diversion criteria and chooses to receive a one-time $1,200 payment to meet an immediate financial need in lieu of receiving Families First participation.

- **Work Requirement**: The caretaker is technically eligible for Families First, is not exempt from a work requirement, and either does not meet the Diversion criteria or does not choose Diversion.

Mandatory Interviews:

- All Families First applicants will have a face-to-face interview prior to the initial authorization of eligibility.

- Families First recipients will have an annual interview to renew their eligibility. This interview may be face-to-face or by phone.

- The interview will usually be with the client. However, if the client has a guardian or authorized representative, this person may be interviewed in lieu of the client if special needs accommodations are necessary. The authorized representative may not negotiate/renegotiate the PRP or provide child support cooperation information.

- A Families First AU must have a PRP. If the AU contains two adults with work requirements, both adults must be interviewed to establish the PRP. If the AU includes a minor parent who is either a dependent child or a caretaker, the minor parent must also be interviewed and must sign a PRP.

Scheduling Interviews:

- The Department will schedule an interview as promptly as possible after the filing of the application in order to ensure that benefits are issued by the 45th day following the application file date.

- An applicant who misses an interview will be notified (via the eligibility and case management system) that an appointment can be rescheduled if necessary. A second interview will not be automatically scheduled. An application that is pending will be denied by the 45th day, if the applicant does not reschedule a missed interview.

- An AU will have an annual renewal interview. The Eligibility and case management system will provide an appointment notice to the AU the month before the AU renewal is due. If the client fails to appear for the interview or make contact, the Families First benefits will be terminated following the 10-day adverse action period.

Single Interview:

A single interview may be conducted for Medicaid, Food Stamps, and Families First. If there are other assistance units within the residence group, the head of each assistance unit must be interviewed.

Waiver of Office Interview:

- Telephone contacts are not acceptable for application interviews unless the face-to-face interview has been waived due to a special needs situation. They are acceptable as contacts between reviews.

- Renewals may be conducted face to face or by phone.

- Home visits are not required, but they may be used when no alternative accommodations can be made or no other accommodations are appropriate for the situation.

Information Provided During the Interview to the Client:

- The client is responsible for supplying verification to establish eligibility. However, the agency will obtain information that is available to the agency or when it is more feasible for the agency to obtain the information. The individual should be given information as to what sources are acceptable. Never deny a case for failure to provide a particular source of verification when another source of verification is acceptable. The client's statement is acceptable verification when:

  - The client tries but is unable to obtain the information; and
  - The information is not available to and cannot be made available to DHS.

- Give the client an explanation about what information is needed and what proofs are acceptable.

- Explain the Diversion program to new applicants.

- Explain time limits and give the client information regarding his/her current time count (if appropriate).

- Inform the client that DHS will contact some individuals or organizations to establish proof of his/her eligibility. The client must be given an opportunity to refuse to give the right to secure information from an individual or agency. If it is determined that a particular person or organization is the only acceptable source for certain required information and the client refuses permission to contact that source, then deny or terminate eligibility.

- Assist individuals who are hearing or visually impaired or otherwise in need of special assistance by providing a reasonable means of communication about the program and their case activity.

- Provide the Civil Rights pamphlet to each applicant. Discrimination because of age, race, color, sex, handicap, religious creed, national origin, or political belief is unlawful.

- Inform the client that information about his/her circumstances will be held in confidence.

- Inform the client of his/her right to appeal any Department action that he/she believes to be discriminatory or unfair or when action on a request for assistance is not taken with reasonable promptness.

- Explain that it is unlawful for anyone to charge, either directly or indirectly, for helping the client file an application with the agency.

- Explain that a request for assistance must be completed within 45 days. Approval can be made only after all eligibility requirements are met.

- Explain that each AU member who is applying for Families First cash assistance must furnish or apply for a Social Security number.

- Explain that clients are entitled to be referred to the Department of Children's Services, if requested. Individuals must be referred if evidence of child neglect or abuse is observed.

- Each AU adult and minor parent must have a Personal Responsibility Plan. Discuss the requirements of the Personal Responsibility Plan. Give the client information about:

  - Work requirements and possible support services.
  - Penalties for failure to comply with the PRP.
  - Child care.

- Explain to all clients:

  - That the AU's rights to child support must be assigned to DHS.
  - That the caretaker must cooperate with Child Support Services to:

    - Identify all absent parents.
    - Locate all absent parents.
    - Establish court-ordered support.

  – That he/she can claim good cause for failure to cooperate and what that claim entails. (See Child Support Cooperation Chapter for details.)
  – How the AU may be eligible for child support pass-through payments.

- Give a copy of the Child Support Handbook to the applicant/recipient.

- Explain that the client can register to vote at the DHS office.

- Explain that, if the applicant is approved, the AU will receive a cash assistance payment.

- Explain that the cash assistance may be used as the applicant sees fit to meet the needs of the family.

- Explain that, if the client is eligible for other benefits (other than SSI), the client **must** apply for and accept the benefits. SSI is a potential benefit when age or disability is a factor. Applying for SSI is optional, not required.

- Explain that individuals under age 21 are eligible for Early Periodic Screening, Diagnosis and Treatment (EPSD&T) provided as a service of the Department of Health.

- Explain other program policies that may apply:

  - Family cap.
  - Marriage During receipt.
  - EITC.
  - Transitional benefits.

- At each application and renewal interview, give each applicant/recipient:

  - Diversion Agreement (at application) if applicable.
  - PRP copy.
  - Privacy Act pamphlet.
  - Civil Rights pamphlet.
  - Child Support Handbook.

Failure to Cooperate in the Eligibility Process:

Initiate case closure for failure to cooperate when the AU fails, without good cause, to provide requested information needed to establish eligibility for assistance. If the AU fails to comply with a **written** request for information or completion of specific action, send a 10-day adverse action notice. If the AU complies prior to the expiration of the 10-day notice requirement, assistance will be continued if eligibility is re-established.

An application will be denied for failure without good cause to provide requested information prior to the 45-day time limit. The case record must be documented to show that the information was requested **in writing** from the applicant and that the information was not available or could not be readily made available to the agency.

The Families First client has the primary responsibility for obtaining required verification; however, the Department must assist the individual when a good faith effort has been made and difficulties encountered. The Department will rely on automated verification, such as data exchange matches, whenever possible. Obviously, if the information is readily available to the Department, the client should not be requested to obtain the verification. In any instances where the client is having difficulty obtaining the information, the Department must offer assistance in securing the verification. When it becomes known to the Department that a client has a disability which is causing difficulty in providing verification, the Department will assist the

individual as indicated. The assistance could include, for example, providing the individual a reasonable means of communication or soliciting the required verification document directly.

If the applicant notifies the Department that he/she is unable to provide the information within the 45-day time limit, the Department will attempt to obtain the needed information. If neither the Department nor the client can obtain the information, accept the client's statement as verification.

If an applicant is denied prior to the 45th day for loss of contact and returns before the 45th day to provide the required verifications, protect the original application date and provide retroactive benefits back to the application date or the eligibility date (if later than the application date).

Refusal to Cooperate in the Eligibility Process:

- Refusal to cooperate is **not** evident until the Department has explored the situation with the client in an attempt to help him/her establish eligibility and to determine whether there is acceptable reason for any failure to provide needed information.

- Close/deny the Families First case if it is determined that the AU is refusing to cooperate. Once denied or terminated, the AU will not be determined eligible in a subsequent application until there is cooperation with the Department. This policy applies to application and any subsequent reviews of eligibility, including regular renewals, reviews resulting from reported changes, and reviews by Quality Control staff.

DIVERSION

POLICY STATEMENT

The purpose of a Diversion payment is to address an immediate financial need and thus, eliminate the need for a family to rely on monthly Families First payments. Eligible clients who can utilize one-time assistance and who meet certain criteria may opt to receive a lump sum Diversion payment in exchange for full Families First benefits.

Diversion Facts:

- A Diversion payment is an once-in-a-lifetime lump sum payment of $1,200.
- Only clients who meet the qualifying criteria will be eligible for the program. In a two parent assistance unit, both parents must meet the qualifying criteria.
- The Diversion payment month will not be a countable month in the lifetime 60-month count.
- An employed client, or one who becomes employed within 30 days of receiving a Diversion payment, will be eligible to receive three months of subsidized child care. This will include a co-pay fee.
  - If employed, the three month count will begin with the month following the month of approval (plus the partial month if approval did not occur on the first day of the month).
  - If employment begins within 30 days of authorization, the three-month count will begin with the month following the month employment began (plus the partial month if approval did not occur on the first day of the month).
  - Child Care for Diversion recipients will follow TCC policy.
  - Diversion child care recipients are not eligible for TCC after three months.
- A two-parent family may only receive 1 diversion payment, even if they are eligible to group into separate assistance units.
- Acceptance of the payment will prohibit the family from receiving Families First for one year.
- A person who is receiving a Families First grant in a "Child Only" case but does not receive FF for his/her own child(ren), may qualify for a diversion payment for his/her own children, if all other points of eligibility are met. **(Bulletin 28, FA-08-20)**
- During the one-year ineligibility period, clients who require emergency assistance may qualify for Families First if they meet re-entry criteria.

Qualifying Criteria:

To qualify for a Diversion payment, a client must:

- Meet Families First eligibility criteria.

NOTE: An uncured sanction does not cause a client to be ineligible for a diversion payment. **(Bulletin 28, FA-08-20)**

- Have an identifiable one-time financial need.

  NOTE: A one-time financial need will be determined by the client representative on a case-by-case basis. Examples of a one-time need could include:

  - Housing – security deposit or moving expenses.
  - Transportation – car repairs.
  - Child Care – cash to cover CC expenses during the temporary incapacity of a relative CC provider.
  - Job needs – work clothes, uniforms, tools, or supplies that are a prerequisite to securing a job.

- Have been a resident of Tennessee for six months.

- Have not received cash assistance in any state in the two years prior to application.

- Have never received a Diversion payment in any state.

- Have no major barriers to employment, like a drug/alcohol problem.

- Have a GED or high school diploma.

- Have a recent work history.

  NOTE: Recent job history is defined as currently employed, or employed steadily in six of the past twelve months, three of which must have been consecutive.

Re-entry Qualifications:

Diversion recipients may qualify for Families First during the one-year ineligibility period only if:

- The receipt of Families First would prevent a child from being removed from the home by the Department of Children Services.

- Assistance would prevent the family from becoming homeless (defined as living in a shelter, car, or hotel).

- The caretaker has become disabled or incapacitated according to families First work exemption policy.

- The caretaker has the responsibility of caring for an in-home disabled relative. **(Bulletin 37, FA-08-28)**

- There is an immediate threat of domestic violence.

Diversion recipients, who return within the "ineligibility period" and qualify for assistance, are not required to repay their Diversion benefits, and no months are added to their lifetime count. **Re-entry during the period of ineligibility must be approved by a Families First Supervisor.**

VERIFICATION

In addition to technical Families First eligibility, Diversion applicants will be required to provide verification of:

- Recent work history – some acceptable forms of documentation include pay stubs, bank direct deposit records, letter from employer.
- Length of residence in Tennessee– some acceptable forms of documentation may include driver's license, statement from landlord, utility bills, and rent receipt.
- Non-assistance, if he/she has lived in another state in the past two years.
- GED or HS diploma.
- Evidence of a one-time financial need.

DOCUMENTATION

The client representative must document in the eligibility and case management system why the applicant is or is not eligible for a Diversion payment. If a Diversion payment is made, the Diversion date will be set by the system to the first day of the month of application. The Diversion end date will be set one year from the Diversion begin date. These dates will indicate the "ineligibility period." The client rep will also document in the eligibility and case management system that a Diversion Agreement was signed and attached to the application and that the client was given a copy of the Agreement.

PROCEDURES

The client representative will present the Diversion option during the orientation interview to new clients who have a work requirement. If a client meets the Diversion criteria and chooses to receive a payment in lieu of Families First, the client rep will:

- Request that the client sign a Diversion Agreement.
- Give the client a copy of the signed agreement.
- Enter the Diversion indicator in the eligibility and case management system.
- Complete Diversion documentation information in the eligibility and case management system.
- Make an (off-line) Child Care referral, if employed.
- Issue a Diversion payment (as an auxiliary payment accessed with an EBT card).

Only Program Supervisors and client representatives are authorized to issue Diversion payments.

VERIFICATION PROCEDURES

POLICY STATEMENT

Verification is the process of confirming or substantiating information provided by the client.

Any decision made before the end of the standard of promptness period must be based on a clear determination of eligibility or ineligibility.

Verification is the responsibility of the applicant/recipient for Families First. The caseworker should secure verifications when the information is known to the Department through automated data interfaces or when it is more reasonable for the Department to secure the information.

For a finding of ineligibility, the caseworker may render a decision based on the AU's unverified statement. For example, an AU reporting resources over the program's resource limit would be determined ineligible. However, to render a decision of eligibility, the caseworker must be able to make a firm determination of eligibility based on verified points of eligibility. Therefore, the verification process is central to the caseworker's ability to certify an AU for benefits. If there is any doubt of eligibility, the caseworker must resolve it using the best evidence including documentary evidence, collateral contacts, and home visits.

The client's statement of the facts can be accepted as verification when:

- The AU has tried, without success, to obtain the needed verification.
- The caseworker has exhausted all means of securing documentary evidence, without success.
- The documents needed are other than those required by another agency, as in unemployment benefits.

Document the efforts that have been made in the eligibility and case management system.

The purpose of verification is to establish as accurately as possible that the AU meets defined eligibility criteria, and that the benefit amount is correct.

Documentary Evidence:

- Documentary evidence is written proof that is relied on as the basis, proof, or support of information provided by the AU and may be official or unofficial.
  - Official documents are those that are prescribed or recognized as authorized and are most commonly provided by businesses, agencies, and organizations engaged in specific enterprises or service delivery. A social security card, utility bill, or award letter is an example of official documents.
  - Unofficial documentary evidence may include such items as hand-written notes from employers, baby-sitters, etc.

- Documentary evidence is considered the primary source of verification. When it is not available, collateral contacts, or home visits will be used.

- When using documentary evidence, record the title or type of document, document number, date of document, date seen, and contents.

Collateral Contact:

- A collateral contact is a verbal confirmation of the AU's circumstances by an individual outside of the home who is knowledgeable of the facts being verified for the AU.

- The contact may be made in person or by telephone.

- The caseworker may select the collateral or may ask the client to provide a collateral.

- The caseworker does not have to accept the collateral named by the client. The caseworker should interview the collateral thoroughly enough to ascertain the relationship and reliability of the collateral so that a decision can be made that the collateral's statements are acceptable.

- When using a collateral, document the eligibility and case management system stating the date contact, whether it was in person or by telephone, or in writing; document the name of the collateral contact; document the relationship of the collateral to the AU; and the content of the collateral contact.

Home Visits:

- A home visit may be scheduled to verify the AU's circumstances when there is no documentary evidence or collateral contacts.

- The eligibility and case management system should be documented with the date the home visit schedule and the date the visit was made and the information obtained during the visit.

Verification Required at Initial Application:

- Residence in state.

- Alien Status.

- Social Security Number or application for a Social Security Number.

- Assistance unit composition.

- Age.

- Relationship.

- Living with a specified relative.

- Marital status.

- Reason for Deprivation.
- School attendance for children age 5 and older and all minor parents.
- Immunizations and Health Check-Ups for children.
- Income, both earned and unearned, and from self-employment.
- Resources.
- How expenses are being met when expenses exceed income.
- Dependent Care expenses.
- Loans.
- Striker status when a strike is in the employment area and there is a history of employment.
- Incapacity for purposes of deprivation.
- Disability or incapacity for work requirement exemption.
- Inconsistent information provided by the client or questionable information.
- Pregnancy conception and expected delivery date if no other children in the AU.

Verification Required at Renewal:

- Residence.
- Composition of AU.
- School attendance.
- Immunization and Health Check-Ups.
- Deprivation of parental support- has an absent parent returned to the home.
- Living with a specified relative.
- Enumeration- verify Social Security Number of any members who have previously applied for a number and have not reported the number.
- Pregnancy for family cap decision.
- Gross income- earned, unearned, self-employed.
- Deductible expenses.

- Resources.
- Striker status.

Verification of reported Changes:

- Clients are required to report changes within 10 days of the date the change becomes known to the AU.
- Changes are subject to the same verification procedures and requirements that apply to initial applications or renewals.

Verifications may be requested using forms contained in the default library on GroupWise or through electronic data exchange available through the eligibility and case management system and Clearinghouse.

AUTHORIZATION OF GRANTS

POLICY STATEMENT

Families First grants are received through an Electronic Benefit transfer system (EBT). This is an on-line system in which the recipient, or other designated payee (Protective Payee), can electronically access assistance benefits with the use of a Benefit Security Card.

The grant is authorized by the caseworker assigned to the case, or other caseworker or supervisor in the administrative structure who has update access to the case.

The grant is authorized by entering the appropriate reason codes in the eligibility and case management system case file.

After the caseworker authorizes the benefits, they are transmitted nightly to the EBT processor. The processor sets up the individual debit accounts, which allow participants to access their benefits.

Families First benefits can be accessed on the first day of each month for active participants. For new applicants, the benefits will usually be available the day after the grant is authorized.

The Benefit Security Card is mailed to the participant at the mailing address listed in the eligibility and case management system. If there is a protective payee, a Benefit Security Card will be mailed to the address listed on the eligibility and case management system. The address for the participant and the protective payee (if any) must be a legitimate address and cannot be "General Delivery".

The Benefit Security Card will be mailed only to the caretaker relative named in the eligibility and case management system unless a protective payee is named.

Refer to the EBT handbook for more detail.

Refer to the Treatment of Income chapter for grant amounts.

Authorization of Differential Grants:

Certain Families First AUs, with one to five individuals, are eligible for larger Families First grant amounts. These increased grant amounts are called differential grants. The following AUs will receive differential grants:

- Child only cases: cases in which the non-parental caretaker is not included in the AU and SSI caretaker cases; these are cases where the caretaker is an "NA".

- Disabled caretakers: caretaker has a medically verified disability (not an incapacity) - refer to the verification section of the Work Requirements Chapter for definitions of which persons fall under the disabled category.

- Caretakers caring for a disabled relative living in the home. **(Bulletin 37, FA-08-28)**

- Caretakers age 60 and older.

EXCEPTION: AUs are not eligible for a differential when the caretaker is:

- An NA because he/she is an illegal alien.

- A minor parent.

The caseworker must enter the correct exemption codes in the Eligibility and case management system to ensure that the system will properly compute the differential grant amount.

Designation of Protective Payee:

The protective payee is an individual who has access to the AUs cash benefits. He/she is responsible for and expected to use the cash grant for the benefit of the child(ren) and to act for the caretaker in relation to the child. The protective payee may be related or unrelated and may live in the home or apart from the AU.

- If an assistance unit has a protective payee, Benefit Security Cards are mailed to both the payee and the caretaker. However, only the protective payee will have access to the cash benefits.

- No employee of DHS may serve as a protective payee.

- It is also not possible for a business to be designated as a protective payee. This is because the Benefit Security Card must be issued in an individual's name, and that individual will be responsible for activating the card and accessing the benefits.

A Protective Payee will be named:

- If the individual applying for Families First has a guardian, the guardian will be named payee for the grant.

- If a child who has a legal guardian is living in the home with a relative within the specific degree of relationship, the guardian will be named payee for the AU.

- When the caretaker is a minor under age 14, or is a minor deemed in need of a protective payee.

- In emergency situations that will not exceed a three-month period. When an emergency situation becomes known, the caseworker will:

  - Determine the nature of the emergency, the whereabouts of the caretaker and the children, and the name, telephone number, and address of the person reporting the emergency.
  - Secure the name of a protective payee (from the caretaker, if possible).

  - Determine continued eligibility for the AU and make any necessary changes.
  - Refer the case to Child Protective Services, if appropriate.

- Set an expected change within three months to determine the circumstances of the AU.

Authorization of Retroactive Assistance and Auxiliary Payments

- When it is determined that the applicant is eligible for the current month and subsequent months prior to approval, a single payment is made to the AU beginning with the date of application. The eligibility and case management system will compute current month and retroactive payments when the case is authorized.

- When an applicant is currently eligible, but would have been ineligible during the application month, deny the application for the application month. Enter a new application date for the month the AU is eligible. Payment will be made for the current month and any eligible future months.

- Deny an applicant who has had a change in circumstances during the application processing period that causes the AU to be ineligible for the current and future months. Issue an auxiliary payment for the month(s) of eligibility. Authorize the auxiliary payments.

- Auxiliary payments are made to correct an underpayment of at least $1.00 per month.

CONTINUING RESPONSIBILITIES

REDETERMINATION OF ELIGIBILITY

POLICY STATEMENT

Every Families First case must be renewed once every twelve months. The renewal may be a face-to-face or may be by telephone. A renewal becomes overdue when twelve months have passed without a redetermination. The twelve-month period for a new application begins with the month of the first check. For active cases, the twelve months begins with the month following the completion of each renewal. The renewal is considered timely if the renewal is completed by the last day in the month in which it is due.

In accordance with the Americans with Disabilities Act, if it becomes known to the Department that an individual is disabled and requires additional assistance, staff should provide reasonable accommodations. For example, if the individual has a visual problem, has trouble reading the notices and requests copies of the notices, the caseworker should provide enlarged print copies.

EXCEPTIONS

There are no exceptions to the redetermination of eligibility requirement for Families First AUs. If the recipient is visiting out of the state or county at the time of the renewal, a contact must be made with him/her through correspondence or by the Department of Human Services in the community in which he/she is visiting. If the recipient is too ill to be interviewed or is otherwise unable to participate in an interview, information regarding the situation must be obtained from the person who is responsible for the recipient's care or from the legally appointed guardian or conservator.

VERIFICATION

Follow the verification procedures for renewal/redetermination of eligibility as described in the Verification Chapter.

DOCUMENTATION

All appropriate eligibility and case management system screens must be completed during the redetermination of eligibility. In addition, all pertinent information regarding the AU's circumstances and anything that affects its eligibility must be documented on the eligibility and case management system. The information in the case must substantiate continuing or reducing benefits or closing the case. Any questionable or unusual circumstances must be explained.

PROCEDURES

The twelve-month renewal will consist of:

- A face-to-face or telephone interview with the grantee relative.

- A face-to-face or telephone interview with the caretaker, if a different person; a contact with each child, if possible.
- A face-to-face or telephone interview with an Authorized Representative appointed by the client.
- A home visit or alternate site visit if necessary.
- Any other contacts necessary to determine continuing eligibility on all factors subject to change.

When investigating continuing eligibility, the caseworker will:

- Analyze all of the information in the case so that changes in the AU's circumstances will be readily identified.
- Carefully question the recipient about the AU's circumstances and any changes that have occurred since the last application/renewal.
- Obtain all the facts available to substantiate the AU's continuing eligibility.
- Obtain any additional information/verification needed to establish eligibility.
- Explain any circumstances that are pertinent to eligibility.
- Authorize the case when all points of eligibility are clarified.

When determining continuing eligibility, the caseworker will:

- Establish whether or not the AU continues to meet income and resource standards.
- Determine if there have been any changes to the AU composition. Individuals should be added to or removed from the AU as appropriate (See the Family Cap and Marriage During the Receipt of Benefits chapters in particular).
- Establish that the AU continues to reside in the state. If a recipient leaves the state, the caseworker must determine if the absence is permanent or temporary.
- Determine the institutional status of any member of the AU that is in an institution to determine if a child's stay in the hospital is temporary and that the grantee-relative continues to have responsibility for the AU.
- Determine whether or not anyone in the AU has transferred or acquired property since approval or since the last renewal.
- Determine if the period of incapacity established by the MEU has expired and needs to be reestablished.

- Determine if the AU is receiving court ordered or voluntary support from an absent parent, make any necessary referral to Child Support Services, and update any information in the eligibility and case management system case about the absent parent.

- Determine if the caretaker and/or second parent still has a work requirement.

The caseworker will instruct the recipient that he/she must report any changes in the AU's circumstance that may affect eligibility within ten days. Examples of such changes are:

- Birth of a child.

- Marriage.

- An absent parent returns to the home.

- An AU member leaves the home.

- A substantial change in income or resources.

The caseworker will provide a Change Report form for the client to use to report changes.

ACCRUAL RIGHTS TO A FAMILIES FIRST CASH PAYMENT

POLICY STATEMENT

Once an applicant is found to be eligible for Families First benefits and benefits are authorized, he/she has a right to the initial payment provided that he/she is alive on the date on which the application was filed. If the Families First payment is authorized for the calendar month in which the application was made, the AU has the right to the Families First payment from the date of application through the month in which the case is authorized. If the AU is ineligible for Families First benefits in the month of authorization, but is eligible in the following month, the AU has the right to the payment for the month following authorization. The right to a continuing Families First payment accrues on the first day of a calendar month for which payment is made as long as the recipient is alive and eligible for payment on that day.

EXCEPTIONS

If the client or legally responsible relative in the home was on strike as of the last day of the month, the AU is not eligible for an assistance payment made for that month.

CHANGES BETWEEN RENEWALS

POLICY STATEMENT:

Some cases may need more frequent contact than every twelve months because of changes in the AU's circumstances that can be expected. In those instances, the caseworker should set an "expected change" alert to ensure that the changes are investigated and acted on in a timely manner.
The following are cases that might require more frequent contact.

- Cases in which the record shows that the recipient has failed in the past to give accurate information and/or has failed to report promptly when changes occur in the AU's circumstances.

- Cases in which one or both parents do not have the mental/physical ability to act responsibly and/or to give accurate, reliable information.

Case Adjustments:

When changes occur between renewals that affect the AU's eligibility or benefit level, the caseworker/client rep must adjust the case. The AU's and the county office's responsibilities regarding changes are listed below.

- Client Responsibilities

  The AU must report the following changes within 10 days of the date that the changes become known to the AU:

  - All changes in source and/or amount of income.
  - When cash on hand, stocks, bonds, and money in a bank account or savings institution reaches or exceeds the resource limit.
  - When the AU obtains a vehicle.
  - All changes in household composition.
  - Changes in residence.

  Changes may be reported by telephone, in person, or by mail using the Change Report Form, HS-047, to their caseworker or client rep, whichever is in charge of case management. Changes may also be reported by calling the Family Assistance Service Center (FASC). <u>The ten-day period will begin with the date the change becomes known to the AU</u>. The change will be considered as reported by the AU on the date the report of change is received by the county/FASC or, if mailed, the date the envelope is postmarked. Each Change Report Form will be date stamped immediately when received in the county office. The date that the change was reported or post-marked must be documented in the eligibility and case management system. If the AU failed to report a change and received benefits to which it was not eligible, the caseworker will refer the case to COTS so that an overpayment claim can be prepared.

- Caseworker/Client Rep General Responsibilities

  - The county office will not impose any reporting requirements on the AU.
  - The caseworker/client rep will not treat the submission of changes as a waiver of the AU's right to a ten-day Adverse Action notice unless the recipient indicates in writing that he/she understands that the report will reduce or terminate assistance.
  - The caseworker/client rep will provide a Change Report Form and "postage paid" envelope to each AU at approval, at renewal and when a Change Report Form is returned by the AU. A Change Report Form will be provided to the AU more often if necessary. The caseworker will encourage the AU to use the Change Report Form when a change is being reported.

- The caseworker/client rep will act on the changes reported by telephone and in person in the same manner as those reported on a Change Report Form.
- The caseworker must inform the AU of its responsibility to report changes within ten days at application and at each renewal.
- The caseworker will take prompt action on all changes to determine if the changes affect the AU's eligibility or benefit level.
- In accordance with the American with Disabilities Act, if it becomes known to the Department that an individual is disabled and requires additional assistance, staff should provide reasonable accommodations. For example, if the individual has a visual problem and has trouble reading the notices, the caseworker should provide enlarged print notices.

Increasing Families First Benefits:

The caseworker/client rep will take prompt action when an AU reports a change that increases the Families First benefits. Once eligibility has been established, the increase in benefits will be made effective with the month following the reported change. A change reported during recurring processing will be effective the second subsequent month, except when the change is to add an individual. When adding an individual who is required to be included in the AU, the benefits will be increased effective the date the individual entered the home or date of birth for a newborn. If the individual is an optional AU member, the effective date of eligibility will be the date the request was made to add the individual to the AU.

Terminating Families First Benefits for Cases (with or without a work requirement) Closing for a Non-sanction Reason:

- When the caseworker/client rep identifies a potential case closure for a non-sanction reason, he/she will attempt to contact the caretaker by telephone to:

  - Discuss the reason for the potential closure.
  - Establish good cause, if applicable.
  - Attempt to correct any problems or misunderstanding that may have occurred.

  NOTE: If the caseworker/client rep attempts a call and the line is busy, the caseworker must attempt another contact for each time the line is busy. If the line is out of order, then no further attempt to contact by telephone is necessary. In addition, if the client does not have a telephone, but a message number is listed, the caseworker/client rep will attempt to reach the participant at a contact number and leave a message.

  EXCEPTIONS: The following closure reasons do not require a telephone call prior to closure.

  - The caretaker requests the closure by a verbal request to the DHS supervisor or in writing.
  - The caretaker requests the closure by a written request and a DHS supervisor has reviewed it.
  - The AU's income or resources exceed the Families First limits.
  - The entire AU has moved out of state.
  - There are no children in the AU within the age limits.
  - All AU members have died.

- The only adult in the AU has died or left home.
- All AU children are eligible for benefits in another AU.
- All AU children are in foster care or have been adopted.
- All AU members receive SSI.

- Prior to closing the Families First case:

  - Check the case to ensure that there have been no changes that would affect the case status.
  - Check to be sure that there is not a potential sanction closure reason.
  - Check to ensure that the case has not reached time limits.

  Do not close a case if a sanction or time limits are potential closure reasons even if the closure reason is for a reason other than sanction or time limits. Sanction and time limit closures take precedence over other closure reasons.

  Example: A client is a "no show" for a renewal appointment. The caseworker checks the eligibility and case management system, and finds the case to be at 60 months. A time count review must be completed and the case closed for both time limits and failure to keep a renewal appointment.

Written and Verbal Requests for Case Closure:

DHS staff must not advise individuals about whether or not to close their AUs. Instead, staff is to provide accurate policy information so that the caretakers can make informed decisions about the status of their Families First benefits.

Written case closure requests made to individuals other than a DHS supervisor can be closed <u>if a DHS supervisor has reviewed the case</u>. Whether the closure request is written or verbal, the DHS supervisor will document in the eligibility and case management system:

- The reason for the closure request; <u>and</u>

- That the DHS supervisor discussed the closure with the caretaker, if the request was verbal; <u>and</u>

- That the DHS supervisor reviewed the written request; <u>and</u>

- That the client's decision was based on accurate Families First policy, without instruction from DHS staff.

  NOTE: Check the time count prior to authorizing closure based on a verbal or written request. If the case is over the time limit, review the time count prior to closure. If the count holds, close the case for time limits <u>and</u> at the client's request.

Advance Notice of Adverse Action:

If the AU reports a change that will reduce or terminate the Families First benefits or remove a person from the AU, then action cannot be taken until the ten-day adverse action notice has

expired. The adverse action notice period will allow the AU to provide any information/verification that will alter the decision to reduce/terminate the benefits or request an Appeal for a Fair Hearing and continue the benefits pending the outcome of the hearing. If the AU presents evidence during the ten-day period that establishes that the AU is still eligible, benefits will be reinstated without a new application. The adverse action period is also the conciliation period for cases closed for sanction.

The ten-day adverse action period count begins the day after the day that the Notice of Adverse Action is mailed to the AU. If the tenth day falls on a weekend or holiday, the tenth day will end at the close of business on the next working day. The Notice of Adverse Action must be mailed to the AU at least ten days prior to the effective date of the action. If the recipient requests an appeal of an adverse action within ten days of the notice, he/she must be given the option of continuing the benefits pending the outcome of the appeal. If the recipient opts to continue benefits, the caseworker must authorize the benefits at the pre-change level. The caseworker must inform the recipient that if the county is upheld in the appeal decision, the benefits paid during the period between the hearing request and the decision are subject to recovery.

If the client contacts the caseworker within the 10-day adverse action period **indicating** a willingness to remedy the reason for closure, the case must be reopened **immediately** and benefits authorized at the pre-closure level. A new application is not required. The reason for closure will be "remedied" after the case is reopened. If appropriate, good cause should be verified. If the client fails to correct the problem after the case is reopened, the case will be closed again with a Final Closure Notice. After the Final Closure Notice has been issued, the case will not be reopened until the client reapplies and takes whatever steps are necessary to correct the closure reason. The client will not get another 10-day adverse action period.

If the recipient reports a change in circumstances or presents additional evidence during the advance notice period that changes the decision on the case, the benefits should be continued at the appropriate level based on the new information. If the new information does not affect the decision, the reduction or termination of benefits should become effective as specified in the notice originally.

Sanctioned Cases:

In the case of a closure for a sanction due to non-compliance with work requirements, voluntary quit, or the failure of a minor parent to attend school, the client must comply for 5 days before the case can be reopened.

EXCEPTIONS

There are no exceptions to the requirement to report changes within ten days of the date the change became known to the AU. However, there are exceptions to the requirement that the caseworker give a ten-day notice of adverse action. A ten-day notice of adverse action is not required when:

- DHS has factual information confirming the death of the recipient or of a Families First payee and no person can be named as alternate payee;

NOTE: DHS staff must not advise individuals about whether or not to close their case. Instead, staff will provide accurate policy information so that the caretakers can make informed decisions about the status of their cases.

- The recipient has been admitted or committed to an institution where he/she is not eligible receive Families First benefits.
- The recipient has entered a skilled nursing home or intermediate care facility and vendor payments will be authorized through Medicaid.
- The recipient's whereabouts are unknown and agency mail directed to him/her has been returned by the Post Office indicating no forwarding address (if the individual's whereabouts become known during the payment period, however, the recipient's checks to which he/she is entitled will be made available).
- The recipient moves out-of-state and DHS has established that he/she has been accepted for assistance in another state.
- A Families First child is removed from the house as the result of a judicial determination or is voluntarily placed in foster care by his/her parents or legal guardian.
- DHS has received notification that a member of the AU has been approved for SSI.
- Assistance is to be discontinued or reduced as the result of an appeal decision which upholds the county office.
- The AU fails to show up for a renewal appointment.

VERIFICATION

The caseworker is not required to obtain verification when the AU reports changes that terminate the Families First benefits. However, any reported change that increases or decreases the benefits or that is reported by someone other than an AU member must be verified in accordance with the policies detailed in the Verification Chapter.

DOCUMENTATION

The caseworker/client rep must record all changes on the appropriate screens and give full explanation of the changes in the eligibility and case management system. This documentation should include:

- When the change was reported.
- How the change was reported.
- What was used to verify the change.
- What action was taken on the change.

- If the AU filed an Appeal for Fair Hearing during the ten-day notice period and whether or not continued benefits were requested.

Eligibility and Case Management System Documentation for Case Closures:

- Document the circumstances causing case closure.
- Document the attempt to contact the caretaker by telephone (if appropriate)
- Document the outcome of the attempt (if the AU has no telephone, document this also).
- Document the appropriate eligibility and case management system closure reason codes.
- Document the closure date and closure effective date.
- Document the explanation that the AU can receive child support and Families First at the same time, if the caretaker verbally requested case closure because of child support.

Closures Based on Client request:

The DHS supervisor must document the eligibility and case management system explaining:

- The reason for the closure; and
- That the DHS supervisor discussed the closure with the caretaker, if the request was verbal; or
- That the DHS supervisor reviewed the written request and the decision was based on accurate Families First policy, without instruction from DHS staff.

PROCEDURES

When a change is reported, the caseworker/client rep must:

- Determine if the change affects the AU's Families First eligibility or benefit level.
- Record all pertinent information on the appropriate eligibility and case management system screens.
- Obtain all necessary verifications.
- Authorize the new benefit level or case closure so that a notice will be sent to the AU.

COUNTY TO COUNTY TRANSFER

POLICY STATEMENT

Families First recipients may move from county to county within the state and remain eligible for benefits. The caseworker must inform the client at each application and renewal to:

- Report any plan to change residence.
- Provide the approximate date of the move.
- Provide the new address with directions to the residence.

The county offices are responsible for:

- Transferring the case to the new county as quickly as possible.
- Ensuring that benefits are not interrupted if the recipient provides all necessary information.
- Completing a renewal within 30 days of receipt.

VERIFICATION

When the AU is transferred from county to county in the state, the AU is responsible for providing verification for all points of eligibility during the renewal in the new county.

DOCUMENTATION

When the recipient reports a move, the caseworker/client rep in the old county of residence will update the address and directions to the residence on the appropriate eligibility and case management system screens and document the circumstances of the transfer. When the caseworker/client rep in the new county of residence reviews the case, he/she will update the appropriate eligibility and case management system screens and document any pertinent information, just as with any other renewal.

PROCEDURES

- When a Families First AU moves from one county in the state to another, the caseworker/client rep in the “old” county will transfer the case on the eligibility and case management system to the new county.
- If the AU is in an eligibility and case management system case with other AUs, the caseworker/client rep will delete the members of the AU that have moved and set up a new eligibility and case management system case for these members before transferring them to the new county.
- If the recipient reports the move to the new county first, the caseworker/client rep in that county will notify the caseworker/client rep in the old county who will either transfer the case or remove the individuals, as appropriate.

- A renewal must be completed by the caseworker in the new county within 30 days of receipt. When the case is assigned to the caseworker in the new county, he/she will:

  – Schedule a renewal appointment with the recipient.
  – Determine continuing eligibility.
  – Authorize the case; if an AU without a work requirement.
  – Refer the AU to a client rep, if there is a work requirement.

- When the client rep receives the referral, he/she will:

  - Schedule an appointment to discuss current circumstances and work requirements.
  - Refer the client to the work activity contractor.
  - Refer the client to the child care certificate, if needed.

BANKRUPTCY

POLICY STATEMENT

A bankruptcy order can affect the Families First grant amount. Usually, the bankruptcy order will specify that all or a part of the Families First grant amount be paid directly to the bankruptcy court for disbursement to the individual and his/her debtors.

During the period the bankruptcy order is in effect, the Families First grant cannot be reduced due to an overpayment. Even though benefit reduction cannot be imposed on a bankruptcy case while the bankruptcy order is in effect, claims must continue to be completed on any overpayments that occur after the bankruptcy order is issued. Once the bankruptcy is discharged, recovery can be attempted on any post-petition overpayments that have occurred.

Other appropriate actions, such as a grant increase or decrease due to changes in income or AU size, can still be made. In addition, disqualifications and sanctions can be imposed and cases may be closed, if appropriate.

VERIFICATION

The county will receive a bankruptcy order from the court Bankruptcy Trustee.

DOCUMENTATION

Document the eligibility and case management system that the client's case has a reduction in the grant amount due to a bankruptcy.

PROCEDURES

When the Department is notified that a Families First recipient has filed for bankruptcy protection:

- Stop any collection activity to resolve a claim.

- Notify Investigations immediately to ensure the debt to the Department is included in the bankruptcy filing so that it can be discharged through the bankruptcy order.

- Forward the bankruptcy order immediately to FA/Bankruptcy, Fiscal Services, in the State Office. Following the receipt of the order, the FA/Bankruptcy worker will contact the caseworker regarding the appropriate amount to be fiated for the bankruptcy.

- Contact the FA/Bankruptcy worker regarding any change in the grant amount (including case closure). The FA/Bankruptcy worker will contact the Bankruptcy Trustee. Prompt communication between the field and the FA/Bankruptcy worker in the State Office is essential, since there is no automated link for this part of the process. **NOTE:** When a case with a bankruptcy order is closed for any reason (including failing to appear for a renewal), the individual is responsible for the payment to the bankruptcy court in the month following closure.

- Contact the FA/Bankruptcy worker if the case is renewed so that he/she can determine that the bankruptcy order continues to remain in force and can act appropriately.

FAMILIES FIRST OVERPAYMENTS AND UNDERPAYMENTS

POLICY STATEMENT

Title IV-A, Section 402 (a) (22) of the Social Security Act and federal regulations 45 CFR 233.20 (a) (13) require prompt recovery of overpayments and correction of underpayments. TCA 14-8-120 provides for criminal penalty against individuals who fraudulently receive Families First benefits to which they are not entitled.

The Department of Human Services must correctly determine eligibility for Families First benefits and provide the correct grant to each assistance unit.

FAMILIES FIRST UNDERPAYMENTS

POLICY STATEMENT

A Families First underpayment occurs when an AU receives less assistance than they were entitled to receive. Corrective action must be taken promptly to restore benefits retroactively any time an underpayment for any prior period is discovered when the AU is currently eligible for and receiving benefits, or would be if the error causing the underpayment had not occurred. The amount of the underpayment is the difference between the grant the AU received and the amount of benefits they were entitled to receive.

Retroactive payments cannot be used to offset an overpayment.

VERIFICATION

The caseworker must verify pertinent information to establish the amount of benefits to be restored to the AU, such as loss or decrease in income, etc., in accordance with normal verification requirements. See the Verifications chapter for details.

DOCUMENTATION

The eligibility and case management system must be documented fully to explain the circumstances causing the underpayment, the specific months involved and the steps taken to correct the error. In addition, the caseworker must update any appropriate eligibility and case management system screens.

PROCEDURES

Prompt action must be taken to correct the ongoing grant, if applicable. When calculating the amount of the underpayment, the caseworker will:

- Establish the entire period of incorrect payment.
- Use the policies, procedures, budgeting methods and payment standards in effect during the period of underpayment.

- Work a Families First budget off-line to determine the amount of benefit that the AU should have received for each month of the period.

- Subtract the amount received from the amount that should have been issued for each month in question.

- Authorize a retroactive corrective payment for each month involved in the following manner.

The caseworker will enter information in the eligibility and case management system, if the current and/or recurring month's benefits are being corrected for the addition of an individual or a decrease in income, but because of time frames the changes could not be made effective for the current or next calendar month.

If retroactive payments are being made for reasons other than those listed above and/or the retroactive payments are for past months, the caseworker will enter information in the eligibility and case management system.

If child support was collected and there is any remaining unmet need after the retroactive corrective payment has been authorized, the caseworker must notify the Supplemental Unit in the AFDC/FF/FS Policy Section about:

- The months involved.

- The correct CNS.

- The correct Families First payment.

- Any net countable income.

FAMILIES FIRST OVERPAYMENTS

POLICY STATEMENT

A claim must be established when any AU receives more Families First benefits than it was eligible to receive, regardless of the reason for the overpayment. An overpayment must be established for any prior period if the circumstances and overpayment can be determined. The first-line supervisor has full responsibility for ensuring that all claims are accurately and promptly established.

Overpayment may occur as a result of:

- Administrative (agency) error (AE).

- Inadvertent client error (ICE).

- Improper payment error (IPE) for AFDC claims prior to 9/1/96 only.

- Suspected intentional program violation (SIPV).

If a change, either reported or unreported, results in ineligibility, and the payment is not correctly adjusted the next month, then a claim reporting the overpayment must prepared.
When an overpayment is discovered, it must be pended on the Claims On-Line Tracking System (COTS).

For all overpayments beginning on or after 2/1/85, the period of Medicaid ineligibility must be determined for each recipient and reported to the Department of Health if an AFDC/FF ineligible was also ineligible for Medicaid.

Any individual who has been convicted in a state or federal court of having made a fraudulent statement or misrepresentation with respect to the place of residence in order to receive AFDC, Families First, Food Stamp, Medicaid (including TennCare) or Supplemental Security Income (SSI) benefits from two states simultaneously will be ineligible for Families First assistance for a period of ten years. This disqualification will be implemented using the same procedures that are used to implement any other disqualification.

EXCEPTIONS

Claims that occur when excess real property is sold during a period of exclusion and the sale is timely reported are not pended on COTS. Follow the collection procedures outlined in the Resources chapter.

Collection will be pursued for overpayment claims. However, collection will not be pursued on cases that are technically ineligible or overpaid solely because of a procedural error (i.e., failure to enumerate an assistance unit member).

GOOD CAUSE

The earned income disregards are not allowed when calculating overpayment caused by the client's failure, without good cause, to timely report income. Good cause includes the following which might prevent a timely report:

- Severe illness.
- Accident.
- Hospitalization.
- Natural disaster
- Other extenuating circumstances beyond the client's control.

VERIFICATION

All information used to establish the overpayment should be verified. However, if the employer fails or refuses to provide verification or has gone out-of-business or cannot be located, the caseworker should still pend the claim. The claims writer should attempt to verify the actual income of the AU and document the result. Only the income that is verified by the employer or

established by the client's statement or any other available source such as wage match, Clearinghouse, etc., can be used in calculating the claim.

DOCUMENTATION

The caseworker will document the circumstances regarding the overpayment claim and the COTS claim number in the eligibility and case management system case. In addition, the decision to suspend collections must be fully documented in the eligibility and case management system case.

PROCEDURES

The procedures for processing claims in each county are established by the district and county administrative staff. The following guidelines have been developed to ensure that all claims are identified and processed timely.

- Each District Family Assistance Director, Area Manager or Family Assistance Program Supervisor will assign claims responsibility to either:
  - A specialized claims unit.
  - A specialized claims worker.
  - The AU's caseworker.
- The caseworker who discovers the overpayment must pend the claim on COTS using the instructions in the COTS procedural manual.

Establishing the Period and Amount of the Overpayment:

An overpayment must be established for any prior period if the circumstances and overpayment can be determined. The policies and need/payment standards that were in effect during the time the overpayment occurred must be used to establish the period and amount of the overpayment.

If the period of overpayment begins on or after 2/1/85, Medicaid eligibility for any AFDC/FF ineligibles must be determined. If an individual is ineligible for Medicaid:

- Determine the period of ineligibility for **each** recipient.
- Enter this information in the appropriate section of the Family Assistance Claim Determination report.

This information will be transmitted to the Department of Health.

To determine the amount of the overpayment:

- Use prospective budgeting to calculate the claim amount.

- Establish the difference between all IV-A benefits (AFDC/Families First cash assistance and supplemental payments) the AU received and the corrected benefits they were entitled to receive.

- COTS will calculate the net overpayment by reducing the gross overpayment by any IV-D reimbursements of the grant. The claim may be reduced to zero if IV-D collections have reimbursed the State for the AFDC/Families First payment.

Start Date of Claim:

If the claim where the first month of overpayment or ineligibility was prior to 9/1/96 and the error was caused by non-financial changes, whether reported or unreported, begin the claim during the month following the month the change occurred. If income changes either reported or unreported causes prospective ineligibility, begin the claim the month of the change. The month the change occurred is considered to be the month income was actually received by the client.

To establish the begin date of the claim when the first month of overpayment or ineligibility is 9/1/96 or later:

- Allow ten days to report the change from the date the change became known to the AU

- Allow ten days for the caseworker to have acted on the change

- Allow ten days for the advance notice of adverse action.

The begin date of the claim will be the first month after the adverse action period ends.

Earned Income Penalty:

When calculating the amount of the overpayment because of the client's failure, without good cause, to timely report income, do not allow any of the earned income disregards (i.e. $75 work allowance and $30 & 1/3 or $30 for months prior to 9/1/96, $150 for months 9/1/96 to 6/30/07, and $250 for months 7/1/07 and later; and child care in either instance). See the Good Cause section for details.

Collection of AFDC/Families First Overpayments:

Federal regulations mandate that recovery be initiated by the end of the quarter following the quarter the overpayment was identified. However, collection will not be pursued on cases that are technically ineligible or overpaid solely because of a procedural error (i.e., failure to enumerate an assistance unit member).

COTS will generate a "Notice of Benefit Reduction/Request for Repayment" to the AU when the claim is complete. This notice will:

- Inform the AU that they received more benefits than it was eligible to receive.

- Include the amount of the overpayment.

- Include the months of the overpayment.
- Advise the AU to contact the agency to negotiate a repayment agreement.

Detailed instructions are provided in the COTS Procedural Manual.

The caseworker/investigator is responsible for negotiating the Repayment Agreement with the AU. The Repayment Agreement is to be completed for each claim. This form serves as a contractual agreement between the Department of Human Services and the AU and will remain in effect until the claim is repaid in full or another Repayment Agreement is negotiated.

DHS must attempt to recover the overpayment from:

- The assistance unit that was overpaid.
- After consultation and concurrence with departmental legal counsel, any AU of which the caretaker and/or other adult member of the overpaid AU has subsequently become a member.

  Examples

  - The AU consisted of grandmother and her two grandchildren. The AU was overpaid because the grandmother failed to report her earnings. She requested that she be removed from the AU, but she still received assistance for her two grandchildren. The grandmother refused to repay the overpayment. Since we must recover the overpayment from the AU that was overpaid, grant reduction must be invoked from the children's AU.
  - Mrs. James received assistance for herself, her disabled husband and their child. Mrs. James failed to report that she had started working and the AU was overpaid from February through June.

    In July, Ms. James left the state and DHS could not locate her. Mr. James applied for assistance for his nephew and was approved. This AU consists of Mr. James and his nephew.

    Since Mrs. James' whereabouts are unknown, we must get departmental legal counsel's opinion of the feasibility of attempting recovery from Mr. James' current AU. If our legal counsel is in agreement, then we will recover the overpayment from Mr. James' grant.

Methods of Repayment:

The net overpayment will be collected through:

- Grant reduction (active money payment cases only).
- Lump sum repayment.
- Installment payments.

Non-IPV overpayments for active money payment cases must be recovered through grant reduction. Grant reduction may be used for IPV overpayments unless other payment plans are decreed by the court. Federal regulations require that recipients subject to grant reduction must be allowed to retain income (Families First payment plus other income) equal to at least 90% of the payment standard for their AU size.

If the grant is reduced to zero because of grant reduction, the AU continues to be considered Families First recipients. They remain eligible for Medicaid. However, they must continue to meet all Families First eligibility requirements (i.e. deprivation, resources, enumeration, etc.).

If a former recipient reapplies and the AU has an outstanding claim, grant reduction must be invoked at the point of approval. If the recipient had agreed to a monthly repayment, the monthly repayment must be discontinued and grant reduction must be initiated. A revised Repayment Agreement should be pursued, but is not required to initiate the grant reduction.

Initiate grant reduction for active money payment cases as soon as a claim has been established and calculated. However, do not initiate grant reduction on a claim that has been referred to Investigative Services unless and until advised to do so by Investigative Services.

The eligibility and case management system will generate a COTS alert to initiate benefit reduction. This will cause the eligibility and case management system to compute the monthly amount to be withheld from the Families First check and generate a Notice of Disposition to advise the AU of the effective date of the grant reduction and the grant amount they will receive. If the net grant amount after grant reduction falls below $10, a check will be issued for the appropriate amount.

If the recipient appeals the grant reduction within ten days, the appeal should be processed as normal. The AU must be informed that they have the option to either accept the adverse action or continue benefits pending the outcome of the appeal.

If the case with grant reduction closes, or the grant falls below $10 before the claim is repaid, the case will appear on the COTS report, Benefit Reduction to Repayment. A request for Repayment, HS-200, should be sent to the AU advising them of the outstanding balance of the claim and requesting that they come in to sign a new Repayment Agreement. COTS will continue to send monthly statements to the inactive AU in accordance with COTS Procedural Manual.

Other Repayment Methods:

A lump sum payment is a one-time payment for the entire net balance of the overpayment or a partial payment on the claim. This type of repayment is to be used on inactive cases or active cases when the recipient requests this option.
An installment payment is a regular monthly payment made on the balance of the overpayment. Installment payments may be accepted as the repayment method for inactive cases if total repayment by lump sum is not possible.

Other methods and/or schedules or recovery may be used as ordered by a court for IPV claims.

Procedures for Lump Sum or Installment Payments:

After the claim has been completed, collection activities will be initiated and COTS will generate the Notice of Grant Reduction/Request for Repayment. The Request for Repayment will instruct the individual to contact the agency to set up a repayment plan.

If the individual responds:

- The Repayment Agreement will be negotiated.
- The appropriate COTS change will be submitted in accordance with the COTS Procedural Manual.
- The individual must be given a preaddressed, postage-paid envelope and advised to send payment to:

  Tennessee Department of Human Services
  Fiscal Services Section
  P.O. Box 198980
  Nashville, Tennessee 37219

- Fiscal Services will continue collection efforts if payment is not made in accordance with the Repayment Agreement.

If the individual fails to respond to the Request for Repayment or complete the Repayment Agreement:

- Section R (Repayment section on COTS) must be completed, placing the claim in repayment status.
- Fiscal Services will send monthly statements and preaddressed, postage-paid envelopes to the overpaid AU.
- Collection activities will automatically be suspended after six monthly statements have been sent to the AU if there have been no payments. However, collection activities can be initiated in the future if the AU's circumstances change.

Receipt and Deposit of Direct Payments:

Recipients should be instructed and urged to send all payments directly to Fiscal Services in the State Office. However, the county office must accept payments from anyone who insists on making a local, direct payment.
Each county office is responsible for designating an individual to assume responsibility for receiving overpayment collections and making deposits as follows:

- Repayments in the form of cash, checks of any type or money orders will be accepted.
- A Families First check may only be accepted as payment when it is for the same month and the same amount as the overpayment thereby preventing an overpayment.

- If the recipient gives the Families First check as payment the recipient must endorse the check as follows:

  Signature of Recipient
  For Deposit Only
  by the Tennessee Department of Human Services

- **Do not accept a Families First check as payment for a prior period of overpayment.**

- Procedures outlined in the COTS Procedural Manual should be followed in crediting the client's account and depositing county office collections.

- All collections must be deposited within 24 hours after being received.

- Any repayment that cannot be deposited in the local bank the same day it is received must be stored overnight in a secure area (preferably a vault).

- The client must be given a receipt when a collection is accepted by the county office.

Monthly Statement:

Individuals who have received a Families First overpayment will receive a computer-generated statement each month giving the information shown below. Each overpaid AU, regardless of whether repayment is current or delinquent, will receive a statement until the claim(s) is paid off or until collection activities are suspended.

- Claim number(s).

- Previous balance(s).

- The amounts and dates of payments and credits.

- Current balance (if the AU has multiple claims, the statement will show the total of all overpayments.

- Past due amounts.

- Monthly amounts due.

- Amounts currently due.

- Any special message to the individual.

For a more detailed explanation and instructions, refer to the COTS Procedural Manual.

COTS will automatically suspend collection activities on all claims after six monthly statements have been generated if no payment is received. The county office can suspend collection activities on inactive cases at any time after the claim has been prepared if:

- The agency loses contact with the AU.
- The agency determines that future collection activities would not be cost effective and the outstanding balance is less than $1.
- The agency is prohibited by the court from initiating collection.

See COTS Procedural Manual for instructions on suspending collection activities.

The decision to suspend collections must be fully documented in the eligibility and case management system. The suspension can be lifted if there is a change in the individual's circumstances.

Federal regulations **prohibit** a Families First (AFDC) claim from being deemed uncollectible. Do not deem a Families First claim uncollectible.

Procedures for Families First AUs with Overpayments That File for Bankruptcy:

Individuals who file for bankruptcy can list the Department of Human Services as a creditor if they have an outstanding claim. The Notice of Bankruptcy should be submitted to the State Office. Any bankruptcy documents submitted that are sent to the county office by mistake should be forwarded immediately to:

Bankruptcy Administrator
Attorney General's Office
Tax Division

Bankruptcy Unit
404 James Robertson Parkway
Suite 2121
Nashville, Tennessee 37243

Record Keeping Requirements:

The official records of claims and repayments will be maintained for federal reporting and audit purposes by COTS and the Fiscal Services AFDC Claims Unit in the State Office. Investigative Services staff is responsible for maintaining case files that contain thorough documentation substantiating the overpayment. Case files containing documentation of a claim are to be retained until the total of any and all claims is paid in full.

ADMINISTRATIVE DISQUALIFICATION FOR FAMILIES FIRST

POLICY STATEMENT

An intentional program violation (IPV) is an action by a person for the purpose of:

- Establishing eligibility for Families First.
- Maintaining eligibility for Families First.

- Increasing the amount of a family's Families First grant.
- Preventing a decrease in or termination of a Families First grant.

Which is intentionally:

- A false or misleading statement.
- A misrepresentation.
- A concealment or withholding of facts.
- Any act intended to mislead, misrepresent, conceal or withhold facts, or propound a falsity.

Families First applicants must be given written information ("Fraud, the Law and You") about disqualification penalties at the time of application. Families First recipients will be given this information at each redetermination of eligibility.

Prior to conducting an administrative disqualification hearing, an investigation of an allegation that a person committed an intentional program violation must be conducted. All suspected IPVs must be referred to Investigative Services after the overpayment claims have been pended. Investigative Services will conduct a separate investigation to prepare a case for an Administrative Disqualification Hearing or to pursue court action.

Case Maintenance:

Pending the outcome of disqualification proceedings, the caseworker may take any necessary action to discontinue, terminate, suspend or reduce assistance, or change the manner or form of payment to a protective payee, vendor or two-party payment for reasons unrelated to the reasons for the disqualification hearing. The caseworker will also continue to take any necessary action on a case awaiting investigation, administrative hearing or court hearing. The caseworker/client rep will make changes including:

- The addition of individuals to the AU.
- The removal of individuals from the AU.
- Grant changes.
- Renewal of eligibility.
- All other necessary case maintenance activities.

Disqualification Penalties:

An individual who, on the basis of a plea of guilty, nolo contendere (no contest) or otherwise is found to have committed an intentional program violation as the result of an administrative disqualification hearing (ADH), or by a state or federal court, will be disqualified from

participating in the Families First program. This disqualification penalty is limited to the individual(s) found guilty of having committed an IPV.

An individual found to have committed an IPV will not have his/her individual needs taken into account when determining the AU's eligibility and the amount of assistance, but any resources and income of the disqualified individual will be considered available in their entirety to the AU. This penalty is applied during the entire duration of the penalty period.
The individual will be disqualified:

- For six months for the first IPV.
- For 12 months for the second offense.
- Permanently for the third or a subsequent offense.

In cases where a disqualification penalty and other sanctions or penalties apply:

- The disqualification penalties imposed under this chapter will be in addition to, not be substituted for, any other sanction or penalties which may be imposed by law for the same offenses.
- The disqualification penalties affect the individual concerned and cannot be substituted for other sanctions under the Families First program (e.g., failure to participate in the Personal Responsibility Plan or to cooperate in obtaining child support), but may run concurrently with other sanctions which are in place. After the disqualification period expires, the person will have to meet all eligibility requirements before being added to the Families First AU.

Imposition of the Disqualification Penalty:

A disqualification penalty will be imposed only after the issuance of a Final Administrative Order finding the individual guilty of committing an intentional program violation. The period of disqualification starts no later than the second calendar month following the date of the final order.

In the event that a State or Federal court finds an individual guilty of having committed an IPV, impose the penalty according to the terms of the court order. If imposing the penalty, begin the penalty no later than the second calendar month following the date of the court order, usually the next recurring month.

When the individual's disqualification results from a prior receipt of AFDC and/or Families First, and the case is closed, the disqualification will run as if the person is an active recipient.

A notice will be sent to an individual who has been found to have intentionally violated the Families First program by a final order or has entered into a consent agreement (as discussed later in this chapter). This notice will include:

- The period of disqualification.
- The amount of payment the AU will receive during the disqualification period.

- If the Families First case is closed, information that the disqualification will run as if the person was an active recipient.

Stay of Penalty

Once an ADH has been held and a disqualification penalty is imposed, there is no further administrative remedy available. If a disqualification penalty is imposed by either an ADH or by court order, it will remain in effect unless and until the finding on which the penalty was based is subsequently reversed by a court of appropriate jurisdiction. The period of disqualification will continue even if the Families First case is closed.

The period of disqualification is not subject to administrative stay or review. Therefore, the only way for the disqualification period to be altered is for a court to issue an order to change the period. If a disqualified individual petitions for a judicial review of the period of the disqualification, any orders issued by the court must be followed.

Consent Agreements:

The Department of Human Services may enter into an agreement with the local district attorney's office allowing said district attorney to enter into consent agreements with accused intentional program violators. The agreement will be filed with a court of competent jurisdiction and approved by the court. Before entering into a consent agreement with the accused individual, the district attorney's office must send advance written notice to the accused explaining the consequences of entering into such an agreement.

The advance written notice, prepared by the Department of Human Services, will contain, at a minimum, the following:

- A statement for the accused individual to sign that he/she understands the consequences of signing the agreement.

- A statement that the caretaker relative must also sign the agreement if the accused individual is not the caretaker relative.

- A statement that signing the agreement will result in a reduction in payment for the appropriate period.

- A statement of the length of the disqualification period that will be imposed as a result of the accused individual signing the agreement.

After the court confirms the agreement, a written notice will be sent to the caseworker specifying the period of disqualification and the amount of Families First payment, if any, the AU will receive during the disqualification period.

Court Referrals:

Investigative Services is responsible for referring appropriate cases suspected of IPV for court prosecution. When the court finds the individual guilty of IPV, but does not impose a specific disqualification period, the pre-defined period will be used. If the court finds the individual not guilty, the individual will not be disqualified. Investigative Services will reclassify the claim and initiate collection procedures.

Multiple Overpayments:

- When multiple overpayments were combined into one IPV claim, only one disqualification
- Penalty per guilty individual.
- Multiple individuals in the same Families First AU can have disqualifications running concurrently.
- If a separate IPV claim is established at a later date, a separate disqualification will apply.
- If the individual is serving one disqualification period and subsequently commits a second IPV, the disqualification periods must be served based on the date of decision. Therefore, there may be some overlapping disqualification periods.
- If the individual is found guilty of an offense that occurred prior to an existing IPV, do not impose a disqualification for that prior offense unless it has been specified in a court order.

Once the disqualification period starts, it continues until it is completed. This is true, even if the remaining eligible AU members become ineligible for any reason at a later date. If the disqualified individual leaves the AU, the disqualification follows that individual.

EXCEPTIONS

When an optional AU member is the person found guilty of an IPV, that person is disqualified and removed from the AU. However, the person's income and resources are **not** considered available to the remaining members of the AU.

DOCUMENTATION

All appropriate eligibility and case management system screens must be completed to implement the disqualification. In addition, the eligibility and case management system must contain all pertinent information regarding the disqualification, such as how the disqualification was ordered, the period of the disqualification, etc.

COTS:

After either a waiver, consent decree, court order or ADH, Investigative Services will complete sections E, D, and R on COTS. Section E contains an explanation of the action taken. Section D contains identifying information about the disqualified individual and pends the disqualification. Section R initiates the request for repayment that is sent to the individual.

COTS connections have been modified to include AFDC/ Families First disqualifications.

COTS CONNECTION	EXPLANATION
0	No Outstanding Claims at This Time (Have Had a Claim in Past)
1	Food Stamp Claim
2	AFDC/Families First Claim
3	Food Stamp & AFDC/Families First Claim
4	Deferred Food Stamp Disqualification
5	Active Food Stamp Disqualification
6	Deferred Food Stamp Disqualification with AFDC/ Families First Claim
7	Active Food Stamp Disqualification with AFDC/ Families First Claim (Possible Deferred Food Stamp Disqualification Pending)

COTS CONNECTION	EXPLANATION
A	AFDC/ Families First Deferred Disqualification
B	AFDC/ Families First Active Disqualification (With Possible Deferred AFDC/ Families First Disqualification)
C	AFDC/ Families First Deferred Disqualification With Food Stamp (With Possible Active AFDC/ Families First Disqualification)
D	AFDC/ Families First Deferred Disqualification With Food Stamp Disqualification (With Possible Deferred AFDC/Families First Disqualification)
E	AFDC/ Families First Deferred Disqualification With Deferred Food Stamp Disqualification
F	AFDC/ Families First Active Disqualification With Deferred Food Stamp Disqualification (With Possible Deferred AFDC/ Families First Disqualification)
G	AFDC/ Families First Deferred Disqualification With Food Stamp Active Disqualification (With Possible Deferred Food Stamp Disqualification)

H	AFDC/ Families First Active Disqualification With Food Stamp Active Disqualification (With Possible Deferred AFDC/ Families First/Food Stamp Disqualifications)

PROCEDURES

All suspected IPVs must be referred to Investigative Services after pending the claim.

Investigative Services will conduct a separate investigation to prepare a case for an ADH or pursue court action.

If legal action is being planned, Investigative Services will schedule an appointment for the individual to come in for an interview. The individual will be given an opportunity to make a statement or present facts to clear up any possible discrepancies.

If legal action is not being pursued, Investigative Services will notify the individual:

- That it appears a member of the AU has committed an intentional program violation.
- About the basis of the violation (e.g. unreported income).
- That an appointment has been scheduled with an Investigative Services staff member to discuss the overpayment.
- That the individual may either sign a waiver or proceed with the ADH.
- Explain about the disqualification periods for the first, second and third IPVs.
- About the methods of repayment of the overpayment.
- About the availability of free legal representation.

If the individual does not respond to the requests to come in to discuss the overpayment, Investigative Services will notify Administrative Review to schedule the hearing.

All referrals for an ADH will be made by Investigative Services to Administrative Review. A person accused of an IPV may waive his/her rights to an ADH. The notice concerning the right to waive an ADH is sent by the investigator and the waiver itself is secured by the investigator.

Imposing a Disqualification:

Investigative Services will notify the caseworker by e-mail message about the date of adjudication and length of disqualification. Family Assistance must notify the individual and remaining AU members of the disqualification using the Free Form Client Notice.

Determining Eligibility With Disqualifications:

All income and resources of the disqualified individual count to the remaining AU members. (See Exceptions in this section.)

Apply the appropriate earned income disregards to the earnings of the disqualified individual unless the earned income penalty is applicable. Determine the AU's eligibility and grant without including the disqualified individual's needs.

The caseworker must begin the disqualification:

- Based on the terms of a written court order.
- The first month possible based on timely notice requirement and computer month-end deadlines after the ADH waiver or Consent Order was signed.
- The first month possible based on timely notice requirement and computer month-end deadlines after final order from Administrative Review is received.
- The first month possible based on timely notice requirement and computer month-end deadlines after court order is received.

The disqualification must start no later than the second month following the date of the waiver or order, usually by the next recurring month and the disqualification must be imposed regardless of whether or not the individual is an active recipient. If there are multiple disqualifications or overpayments, the disqualifications will be imposed in accordance with the Policy Statement regarding multiple disqualifications in this section.

In addition, the caseworker must:

- Notify Investigative Services by e-mail message about the disqualification begin date (Investigative Services will then enter that information on Section D on COTS.).
- Authorize the eligibility and case management system case and update the eligibility and case management system.
- Set up an expected change for the month the disqualification is due to end.
- Send the appropriate notice using the verification notice sub-system (free form).

Ending the Disqualification:

A computer report is produced around the 15th of the month and is accessible through Infopac. This report, Disqualification Due to Expire Report, lists all AFDC/Families First and Food Stamp disqualifications that are expiring for the current month. This report serves as an alert that the disqualification has ended.

In order to prevent an underpayment, the caseworker must take the actions listed below during the month the eligible individual first appears on the report.

- Add the individual back into the AU if the individual is currently eligible.
- Recompute the budget.

- Notify the individual of the change using the free form Client Notice on the verification notice sub-system.

If the case is closed because of the disqualification, the AU must apply after the disqualification has ended.

PROTECTION OF CHILDREN

POLICY STATEMENT

The Mid-Century White House Conference on Children and Youth defined the rights of all children which must be preserved and protected. These rights of children and rights and responsibilities of parents are detailed in the Department of Children's Services policy. However, the following information must be made available to all Family Assistance staff so that they will be fully aware of the Department of Human Services' responsibility in protecting children.

Federal regulations and state law require that Family Assistance staff be alert to possible signs of neglect, abuse or exploitation of the children we serve and to make appropriate referrals. Every child has the basic right to have parents and a home in which he/she receives the necessities for sustaining life. Therefore, Families First benefits may preserve a home and the necessities for the child when he/she is in jeopardy of losing these. When assistance is requested, the Family Assistance staff must determine eligibility as quickly and objectively as possible to ensure that income is made available to purchase these necessities (if all eligibility requirements are met regardless of the strengths or weaknesses of the home situation). When there is reason to believe that a home is unsuitable because of neglect, abuse or exploitation, the condition is to be brought to the attention of the Department of Children's Services staff with the facts which support this belief. Family Assistance staff must also cooperate with the Department of Children's Services in planning and implementing any action which is in the best interest of the child.

The Family Assistance staff must report and refer any observations of neglect or abuse of children immediately to the Department of Children's Services so that that staff can provide any needed protective services. The following are examples of neglect if the child is

- Malnourished, ill-clad, dirty or without proper shelter.
- Physically abused or cruelly treated.
- Without proper supervision and is left unattended or is allowed to wander about without parental direction.
- Overworked or exploited.
- Seriously ill and the parents neglect or refuse to provide the necessary medical care and treatment.
- Emotionally disturbed and his disturbance appears to be the result of physical, mental or emotional incapacity of his parents or of other manifestation of family breakdown, such as severe marital conflict.
- Denied normal exercise that produce feelings of being loved, wanted, secure and worthy.

The following information has been provided from the Child Protective Services manual for the caseworker to use in evaluating whether child abuse/neglect might exist and/or whether a referral to Department of Children's Services for further evaluation is in order.

Conditions of a Child Indicating Possible Abuse/Neglect:

- Physical injuries including fractures, burns, bruises, welts, cuts and/or internal injuries in various stages of healing.
- Impaired psychological growth and development as evidenced in infants by lack of positive operant behaviors such as smiling, mobility, exploration, vocalization and manipulation of objects.
- Impaired psychological growth and development as evidenced in childhood and adolescence by poor self-esteem and lacking interpersonal skills necessary for adequate performance in nonfamiliar contexts such as schools, peer groups, etc.
- Impaired cognitive development including awareness and judgment.
- Child has a dull, "vacant" stare.
- Signs of extraordinarily poor hygiene.
- Emaciated appearance and/or distended abdomen; height and weight below average or normal for age.
- Pallor which suggests anemia.
- Wasting of subcutaneous tissue and/or untreated skin lesions.
- Dehydration.
- Maggot infestation of wounds or infestation of lice and/or other body vermin.
- Lack of basic survival needs such as food, clothing, shelter or supervision taking into account the amount of time the child is unsupervised, the child's age and competence, and time of day.
- Impaired physical growth and development.
- Obviously very poor teeth, recurrent toothaches.
- Lack of positive social values as evidenced by stealing, harming others, other anti-social behavior.
- Apparently undue fear of their parents.

- Behavioral extremes. For example, crying often or crying very little and showing no real expectation of being comforted; being excessively fearful; or seeming fearless of adult authority; being unusually aggressive and destructive, or extremely passive and withdrawn.

- Wariness of physical contact, especially that initiated by an adult; apprehensive when an adult approaches another child, particularly one who is crying.

- Hungry for physical contact yet may have difficulty relating to children and adults.

- Sudden changes in behavior on a frequent basis. For example, displaying regressive behavior such as pants wetting, thumb-sucking, frequent whining; becoming disruptive; or becoming uncommonly shy and passive.

- Take over the role of the parent, being protective or otherwise attempting to take care of the parent's needs.

- Learning problems that cannot be diagnosed.

- Habitually truant or late to school.

- Always tired and often sleeps in class.

- Inappropriately dressed for the weather on a regular basis, too much or too little clothing.

- Sexual involvement with an adult, particularly in young children or at any age with a relative.

Conditions of a Parent Indicating Possible Abuse/Neglect of Children:

- Isolation from family supports such as relatives, friends, neighbors, and community groups.

- Appearance of trusting no one.

- Reluctance to give information about the child's condition or injuries. Unable to offer an explanation or the explanation is far-fetched, contradictory, or plausible but unlikely.

- Responds inappropriately to the seriousness of the child's condition either by overreacting (hostile or antagonistic) or by under-reacting (exhibiting little concern or awareness and seeming more preoccupied with their own problems).

- Refusal to consent to diagnostic studies of the child.

- Failure or delay in taking the child for medical care for routine checkups, optometric or dental care or for treatment of injuries or illness.

- Overly critical of the child and seldom, if ever, discusses the child in positive terms.

- Unrealistic expectation of the child, expecting or demanding behavior that is beyond the child's years of ability.

- Belief in the necessity of harsh punishment for children.
- Seldom touches or looks at the child; ignores the child's crying or reacts with impatience.
- Keeps the child confined, perhaps in a crib or playpen, for overlong periods of time.
- Seems to lack understanding of child's physical, emotional and psychological needs.
- Appears to be misusing alcohol or drugs.
- Cannot be located.
- Appears to lack control, or fears losing control, of children or self.
- Lacks knowledge of parenting skills.
- Appears to be borderline in intelligence, psychotic or psychopathic.
- Exhibits generally irrational behavior.
- Gives child inappropriate food, drink or medication.

The above lists are not all-inclusive, but are some indicator that conditions are conducive to abuse/neglect. As in any situation involving human beings, a particular observable condition must be viewed in relation to other conditions existing in a family. However, if a child and his parent both exhibit any one of the listed conditions, a referral will be made to the Department of Children's Services for the protection of the child.

Statutory Rape:

All Family Assistance staff is required to report knowledge of possible statutory rape, as they are required to report any kind of child abuse or neglect. In Tennessee, statutory rape is defined as:

- Consenting sexual penetration when the victim is at least 13 but less than 18 years old and the person he/she consented to have sexual penetration with is at least four (4) years older. **Statutory rape** is a class E felony. Punishment for a class E felony is a prison sentence ranging from 1 to 6 years.

- Contact your local Department of Children's Services (DCS) office and notify the Child Protective Services intake worker of a possible occurrence of statutory rape when a Families First applicant or recipient is:

  - A minor at least thirteen (13) years of age but less than eighteen (18) years of age, and is pregnant or has children; **or**
  - A parent, legal guardian or custodian on behalf of such a person; **and**
  - The father of the minor's unborn child or the father of her child(ren) is at least four years older than the minor.

NOTE: **Do not question the pregnant minor regarding the age of the A/P as this is not information we normally gather prior to a child's birth. However, if information presented during the interview reveals that statutory rape is a possibility, contact DCS. Otherwise, A/P information can be collected when the child is born.**

Either caseworkers or supervisors may report suspected statutory rape to DCS. **Do not** document your report in the eligibility and case management system.

Follow up the verbal report by documenting:

- The case name.
- The case number.
- The victim's name.
- The suspected perpetrator.
- The date the report was made to DCS.
- The name of the person who made the report to DCS.
- The name of the DCS Child Protective Services intake worker to whom the report was made.

PROVIDE THE STATUTORY RAPE PAMPHLET TO YOUR CLIENTS AT ORIENTATION AND EACH APPLICATION AND RENEWAL AND MAKE THEM AVAILABLE TO YOUR CONTRACT PROVIDERS FOR DISTRIBUTION TO YOUR PARTICIPANTS.

FAMILY SERVICES COUNSELING

POLICY STATEMENT

Family Services Counseling is generally used as a Families First support service tailored to address the specific concerns or problems of an individual client and/or the family. The purpose of Family Services Counseling (FSC) is to provide supportive help to clients who are not making progress and to those who may have barriers to their progress. In addition, Family Services Counseling will help the caseworkers, client reps, and/or FF work activity contractors who may be struggling with situations where clients are not making progress or not following through with the requirements of Families First. Family Services Counseling will provide immediate assistance to clients struggling with issues related to any of the following:

- Mental health.
- Domestic violence.
- Substance abuse.
- Learning disabilities.
- Children's health or behavioral problems.

Family Services Counseling can help with a range of services that may make the path to self-sufficiency easier for some clients. Family Services Counseling includes:

- A preliminary assessment.
- An in-depth assessment, if needed.
- A family assessment.
- Individual and family counseling.
- Advocacy.
- Follow-up.
- Referrals and access to treatment facilities or other appropriate services.
- Access to treatment for drug and alcohol abuse.
- Access to treatment for mental health disorders.
- Access to domestic violence shelters and counseling resources.
- Access to services for help with learning disabilities.

- Identification of multiple and co-existing barriers.

- Services to children.

Family Services Counseling is available to all Families First assistance units that contain an eligible adult, who faces any of the issues listed above. This includes both individuals who are required to work and individuals who are exempt from the work requirement. Children can also receive Family Services Counseling.

Family Services counselors from local mental health, treatment, and/or counseling programs will be available to all county offices and to all work activity contractors. Some counselors may cover more than one county, making them available to each county on a rotating basis**.**

All Families First assistance units must be informed of the availability and content of Family Services Counseling.

Caseworker/Client Rep/Work Activity Contractor/Family Services Counselor Relationship:

Information needed to complete the Personal Responsibility Plan and the Individualized Career Plan for work requirement provisions is shared between the caseworker/client rep or FF work activity contractor and the Family Services counselor. However, due to the sensitive nature of the subject matter and the confidentiality of the client/counselor relationship, some information related to Family Services Counseling will not be shared with the caseworker/FF work activity contractor. The FSC will share with the work activity contractor pertinent information related to barriers that may affect the individual in training and employment.

Federal law on substance abuse and mental health treatment contain rigid confidentiality rules that must not be violated. There will be some information on activities and barriers that will not be shared with the caseworker or work activity contractor, unless the client allows it. All Family Services Counseling related activities will be referred to by the caseworker/FF work activity contractor in the eligibility and case management system as “Family Services Counseling.” For example, a client needs treatment for a mental health condition. The caseworker/client rep will know that the client has 10 hours a week of “Family Services Counseling” and may know that the person is in treatment, but may not know that the treatment is for a mental health condition.

Exceptions:

There are exceptions to the confidential relationship between the Family Services counselor and the Families First client:

- Incidents or suspicion of physical and/or sexual abuse or neglect of a child will be reported, by law, to the appropriate authority.

- Incidents of direct threats of harm to self or others will be reported to the appropriate agency or persons.
- Information can be disclosed as a result of a court order or subpoena.

- Information can be disclosed to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.

NOTE: Information relating to Families First eligibility that is shared with the Family Services counselor during the course of counseling is considered confidential. The only information that FSC is required to report is information directly related to an individual's eligibility for Families First. The Family Services counselor may also discuss how the client's particular barriers affect his/her ability to participate in a work requirement (with the client's permission).

When the Family Services counselor discusses confidentiality during the initial assessment, he/she will present a consent form for the client to sign stating that he/she agrees with and understands these exceptions to the confidentiality policy. Family Services Counseling cannot be provided to a client who will not sign the consent form. If the client refuses to sign the consent form, the Family Services counselor will notify the caseworker/FF work activity contractor about this refusal. The caseworker/FF work activity contractor will then remove Family Services Counseling as a support service.

Referrals:

Families First clients will be able to access FSC primarily in three ways:

- Work Exempt clients will be referred to FSC by their FF caseworker.

  Caseworkers who recognize a barrier or clients who think that counseling or treatment through a Family Services Counseling referral would help them or a family member, will be referred to FSC. **The individual does not need to give the caseworker a reason for the referral request. The caseworker may not ask the client why he or she is asking for the referral to FSC**.

- Clients with a work requirement may be referred to FSC by their FF work activity contractor.

- Client reps who recognize a barrier or potential barrier or who have a client who requests FSC may refer him/her directly to the FSC. The need for FSC service may be determined from interviewing the client, or from responses given on the Families First screening tool. **(Bulletin 10, FA-08-07)**

  If during the application interview, initial or renewal, the client's responses to the voluntary screening tool, indicate the existence of a possible ADA-covered disability, ask the client if he or she would like a referral to Family Services Counseling for an assessment. The client will not be referred to the work activity contractor for a 30-hour work activity until the FSC assessment has been completed.

  If the client does not agree to the Family Services Counseling referral, document the case record to indicate the client's disagreement and refer the client to the work activity contractor.
  If the client agrees to a referral, the client rep will make a referral to Family Services Counseling and document the case record to indicate the client's agreement to Family

Services Counseling. The Family Services Counselor must provide feedback to the client representative within two weeks. This feedback must include:

- The assessment results (type of learning disability or mental health issue).
- How the learning disability or mental health issue affects the client's day to day functioning.
- How the learning disability or mental health issue specifically affects the client's ability to take part in a work/training activity
- Whether the client was referred to a community partner for additional assessment or ongoing mental health or learning disability treatment

If the FSC cannot provide the above information within the two-week period because the assessment has not been completed, the Family Services Counselor will:

- Provide feedback to the client representative (within two weeks) that the assessment is still in progress.
- Indicate when the assessment is expected to be completed.

NOTE: If the FSC assessment indicates that a client is able to participate in a work or training activity, but an ADA-covered disability prevents engagement for 30 hours, the State Office Accommodations Specialist will make the final decision on a case-by-case basis regarding how an accommodation will be applied.

When the assessment has been completed, the Family Services Counselor will provide the feedback information to the client rep who will:

- Review the feedback results.
- Translate the FSC assessment into a directive for an accommodation, if appropriate **(in other words, the client representative and/or client representative supervisor will make the final "need for an accommodation" decision)**.
- Contact the State Office Accommodations Specialist if an accommodation decision cannot be made at the county level.
- Document the FSC assessment results in the case record.
- Refer the client to the work activity contractor within three working days of receipt of the feedback, unless further assessment is needed by the State Office Accommodations Specialist.
- Indicate on the work activity referral the type of accommodation needed, if appropriate.
- Remove the "Temporary Short Term Crisis" code and enter the "30 Activity Hours" code on AEIPA.
- Document how the work activity contractor applied the accommodation.

If the client misses the FSC assessment appointment or follow-up appointments needed to complete the assessment, the FSC counselor will attempt to contact the client within 24 hours to reschedule the appointment(s). If the client cannot be reached or misses the rescheduled appointment(s), the FSC will send a feedback form to the client rep immediately to report that the client was unavailable to be assessed. The client rep will then:

- Document the case record that the assessment was not completed and why.
- Enter the appropriate information in the case record.

- Refer the client to the work activity contractor for a 30-hour activity via a paper referral.

NOTE: If the client contacts at a later date, he or she may request another FSC referral for an assessment for a possible ADA-covered disability.

FSC Request during Engagement in a Work Activity

If the client is actively engaged in a work activity at the time the FSC referral is initiated, the client rep will ask the client if he or she wants to be exempted from the work activity during the assessment period.

- Client wants to be exempted during the FSC assessment

  The client rep will make the appropriate changes and documentation to the electronic case file.

- Client does not want to be exempted during FSC assessment

  If the client is actively engaged in a work activity at the time the FSC referral is initiated and does not want to be exempted from the activity during the assessment or if the client is employed, the client representative will allow the activity to remain in the electronic case file, give the client a "volunteer" status and document the case file. (Bulletin 14, FA-08-10)

Self-Initiated Referrals:

If a client with a work requirement self-initiates, the Family Services counselor will contact the work activity provider to determine if he/she agrees that the client may be referred. If so, the work activity contractor will complete a referral form and send it to the Family Services counselor for an initial assessment.

If the client is work exempt, the Family Services counselor will contact the caseworker who will complete a referral form so that an initial FSC assessment can be completed. If an individual informs the caseworker/client rep that he/she is in a treatment program or has initiated a safety plan to escape domestic violence, the caseworker/ FF work activity contractor may offer an FSC referral. The Family Services counselor will not change the client's treatment or safety plan, but will assess the individual's situation to determine if there are other services that are needed. The intent is to fit the client's self-initiated services into the Families First work plan without interrupting the service/treatment plan that the individual has begun.

NOTE: Residence in a domestic violence shelter or a full-time residential treatment program is not an exemption from the work requirement, but is a good cause reason for non-compliance.

FSC Outcomes:

Following a referral to Family Services Counseling, the Family Services counselor will complete an assessment to ascertain the existence of barriers, and will provide a clinical opinion within two weeks as to how these barriers will affect the client's ability to participate in a work requirement. This information will come in a feedback form emailed to the work activity

contractor. The assessment category will be indicated as well as the number of weekly participation hours, if any, and any other pertinent information necessary for the contractor to perform his/her job.

If the client does not have a work requirement, the FSC will provide feedback to the caseworker indicating whether or not the FSC will be working with the client. No further details will be necessary as long as the client remains exempt from a work requirement.

Outcome Categories:

- Category 1 – No barriers to participation were found.
- Category 2 – Barriers were found that indicate continued work with FSC will be helpful, but will not affect the client's ability to participate in a work activity.
- Category 3 – Barriers so severe that SSI is suggested.

FSC Activities and Job Search/Job Readiness

If a client is participating in FSC activities, the total number of FSC activity hours can be countable toward Job Search/Job Readiness hours if the client chooses this option and he/she has not exhausted the 4 consecutive week limitation or the 360 hours limitation.

If the client chooses to count his/her FSC activity hours toward Job Search/Job Readiness hours and fails to participate in FSC, the non-compliance is sanctionable.

If the client is not participating in Job Search/Job Readiness or the Job Search/Job Readiness limitations have been exhausted, the FSC activity will only be treated as a supportive service. **(Bulletin 37, FA-08-28)**

Transitional FSC:

Families First work activity contractors will be paid for clients who retain their jobs for nine months following case closure for earned income. Clients may request FSC services and work activity contractors may offer FSC services within this nine-month time period so that barriers that may prevent job retention can be addressed.

VERIFICATION

No verification is needed from the client to receive a Family Services Counseling referral.

DOCUMENTATION

- Document the Department's eligibility and case management system to show that Family Services Counseling was discussed with the client.
- Update the Department's eligibility and case management system to reflect the reasons around a Family Services Counseling referral. The details about the barriers that are not necessary for eligibility determination should not be included because of the confidentiality

issue. However, documentation would include the circumstances around the referral, where it originated, when it was sent, etc.

- Update the eligibility and case management system to reflect any pertinent information shared with the caseworker/client rep/work activity contractor following the FSC assessment.

PROCEDURES

- Caseworkers and client reps will inform all assistance units about the availability of Family Services Counseling. Explain Family Services Counseling, and who may be eligible to receive these services.

- If a work exempt client meets any of the referral criteria, offer a referral to Family Services Counseling and complete a referral form if the client indicates interest.

- If a client with a work requirement meets any of the referral criteria and requests FSC, the client rep will make the FSC referral and will include this information in the referral to the work activity contractor.**(Bulletin 10, FA-08-07)**

- If the work activity contractor feels a FSC referral is indicated, he/she will offer a referral to the client and complete an FSC referral form if the client wants to participate in FSC.

  NOTE: If the individual does not volunteer the reason for the referral, **do not ask** for the reason. If the individual volunteers the information about the reason for the referral, the caseworker will complete this portion of the referral form. Document any observations that might be helpful to the Family Services counselor in the comments section of the referral form.